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ABSTRACT

This guide outlines how school districts can identify sex discrimination against women teachers and women administrators in their employment practices. It offers step-by-step instructions for collecting and analyzing data relevant to hiring patterns, promotional processes, salary, and fringe benefits. The first section of each chapter provides background information to determine why an issue is an important factor in determining if discriminatory practices are occurring. The second section of each chapter serves as an example of a hypothetical school situation. Finally, the third section of each chapter provides specific instructions to follow in an examination of discriminatory practices. Worksheets to record findings are provided. (Author/LD)

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SEX DISCRIMINATION IN SCHOOLS:

EVALUATING EMPLOYMENT PRACTICES

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U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

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I. Introduction

This Manual is designed for the use of persons who wish to examine the employment practices of their local school district to determine if, and to what degree, that district discriminates against women teachers and administrators. Because the issues of sex discrimination are complex, and often subtle, this Manual is designed to serve as a step-by-step guide. For each issue that could reflect a discriminatory employment practice, the Manual provides: (1) the background information that explains the importance of the issue; (2) examples of hypothetical situations illustrating discriminatory practices so that groups may recognize whether or not these patterns of sex discrimination also prevail in their own school district; and (3) step-by-step instructions for collecting and analyzing information and data. The instructions describe how to analyze a district's employment practices without using a computer or having a legal or statistical background.

This Manual can be used by parents, community groups, women's commissions, NEA local associations, AFT local unions, and unaffiliated school personnel. It is designed for anyone who wants to question the results of a school district's Title IX 1/ self-evaluation of its employment practices in hiring, promotions, salaries and fringe benefits; or for anyone who is dissatisfied with their 2/ district's unwillingness to conduct more than a superficial examination. A variety of excellent material has been developed for evaluation of local school systems, 3/ however, there are no materials that provide step-by-step guidance in the evaluation of discriminatory employment practices.

Most of the recent attention on sex discrimination in educational employment practices has focused on higher education, i.e., colleges and

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1/ Title IX prohibits discrimination in education based on sex.

2/ Their, used in the singular, to replace the grammatically conventional impersonal "his." This common usage is simpler than "his or her," less disruptive than inventing a new word, and easily understood. NEW PIONEERS: The North Carolina Program to Eliminate Sex Bias in Occupational Education, Amanda J. Smith, Raleigh, North Carolina, January 1977.

3/ See, for example, materials prepared by Resource Center on Sex Bias Roles in Education for U.S. Office of Education.

universities. Based on the limited data available, the problems of elementary and secondary school employment appear to be as severe; because there are so many more women involved,there is less recognition of the issues by the women themselves or by the general public. This Manual provides the guidance to produce the necessary documentation--including detailed legal and statistical analyses--so that women at the elementary and secondary school levels can prepare reports of a sophisticated and well-documented nature, and use them to bring about systemic change in the employment practices of local educational agencies.

Well-documented local studies will serve the immediate purpose of making women educators, school administrators, and the community as a whole, aware of the extent of the problems and the underlying causes of the problems,and will thus provide a foundation of support for remedial action. Achieving this purpose requires more than superficial data collection at the local level.

If your local study is to have a significant impact, the evidence of discriminatory practices must be broken down into specific issues and then analyzed in a sophisticated and technical manner. Without such analyses, your local study can be easily discredited by those who are more familiar with the detailed workings of the school system, and who have a vested interest in continuing the status quo. Therefore, this Manual is divided into chapters according to specific issues. Each chapter focuses on an individual issue.

For instance, one potential issue is the promotion of women teachers to supervisory or administrative positions. In recent years, a woman who did not get a promotion wondered if discriminatory factors were working against her application for promotion. Most promotions in educational institutions, particularly where there is an existing contract between the school district and an association or union, establish formal requirements that are expected to be objective and race- and sex-blind. When a woman complained that women do not have an equal chance for promotions, the ad-

ministration usually countered with the statement that women lack the experience and the leadership potential. These charges can only be countered by assembling the facts and making a coherent case that reflects that she and other women applicants have the required experience and leadership potential. Unless such a case is made, the women probably feel that the fault lay in themselves rather than in the system.

Another potential issue that requires analysis at the local level is the possibility that discrimination exists in the employment of teachers, traditionally a woman-dominated profession. The employment of women teachers has generally been ignored as an area to investigate for discriminatory practices. The effort over the past 20 years, however, to "defeminize" the teaching profession 1/ has eroded the position of women in the field that is by far the largest employer of professional women. Women have dropped from 88% of all teachers to the present ratio of 63% women teachers. It is possible that men could be in the majority during the next 15 years. This Manual will provide you with a means of determining if employment discrimination in the hiring of women teachers is practiced in your district.

This Manual will assist interested groups or individuals to develop such a case if one exists, by showing:

- That women are available for teaching and administrative jobs who meet the job requirements of the district, and that qualified women are being underutilized in the district (Chapter II);
- That the promotion process--recruitment, screening and promotion of administrators--favors men (Chapter III);
- That specific discriminatory practices make it more difficult for women to be hired (Chapter IV);
- That women's difference in pay is due to discriminatory practices (Chapter V);

1/ Howard, Suzanne, "Women Public School Teachers: Second Class, Second Rank, Second Rate?" paper prepared for Resource Center on Sex Roles in Education, National Foundation for the Improvement of Education, Washington, D.C., October 1974.

- That certain fringe benefits policies and procedures are discriminatory (Chapter VI).

By identifying and isolating the issues, collecting the data and analyzing them, the particular patterns in the hiring and promotional processes can be set forth and a case proving discrimination can be made, if it exists.

In order to develop a case, the analysis must include the data on the district as a whole, rather than focusing on the problems of an individual or a particular school, to the exclusion of the broader systemic picture. Without such an analysis, a local study can easily be discredited. You will find, therefore, that throughout this Manual, instructions to collect information or data, will require that you collect the information or data for your entire school district, not just your school.

The Manual is not designed specifically to encourage or discourage legal action. It is rather intended to provide the tools with which to evaluate employment practices,to determine if discrimination is present, and, if it is, to suggest a variety of alternative remedies that may be used to eliminate it. For teachers, women's groups or other concerned individuals, it provides the means for organizing on their own behalf, for bargaining on an equal basis with the school system, or, if necessary, for seeking legal remedies to eliminate discriminatory employment practices (Chapter VII).

Each chapter provides all the information necessary for you to carry out your own investigation in your school district. By following the instructions in each chapter, you will be able to determine if there are practices that are discriminatory and the extent to which those practices occur. The information in each chapter is presented in the following way:

The first section of each chapter is presented in Roman type, such as the type being used in this paragraph. The section presented in

Roman type describes and explains all the background information necessary to understand the issue being presented, why it is important to examine the issue, and what it can tell you about discriminatory practices, etc. Therefore, when you see a section in Roman type, you will know that the section is providing relevant background information to assist you in understanding why this issue is an important factor in determining if discriminatory practices are occurring.

The second section of each chapter is presented in italic print, such as the type being used in this paragraph. The sections that appear in italic print provide examples of hypothetical school situations. Some situations require that you collect and analyze data. The sections presented in italic print will provide an example that will show you exactly how to collect and analyze the data. Therefore, whenever you see italic print, you will know that an example of a hypothetical situation is being presented. The example will illustrate for you exactly what you will have to do in your own school district to determine if discriminatory practices are occurring.

The third section in each chapter is presented in large type, such as the type being used in this paragraph. The sections that appear in large type provide specific, detailed, step-by-step instructions for you to follow in your investigation. The instructions will tell you exactly what information or data to collect and, where appropriate, instructions will tell you how to enter the information on the tables. Blank tables are provided at the end of each instruction section for you to work with as you follow the directions and enter the information or data for your school district. There are also duplicates of every table in the Appendix that are provided should you need an extra copy to enter your final data, or should you want to use the Manual for a second study. The tables correspond directly to the tables used in the examples. Thus, after

reading the examples in the section in italics, you will be able to follow the instructions in large type using exactly the same tables and procedures used in the example. On the basis of the information collected, you will be able to construct the patterns of employment as they exist in your school district to determine if discriminatory practices are occurring.

II. Availability/Underutilization of Women in Administrative Positions

The underutilization of women in administrative positions in elementary and secondary school districts is one of the most critical issues to be considered in your investigation. It is also one of the most complex.

Women have become increasingly underrepresented in elementary and secondary school district administrative positions across the country. Women are clustered at the bottom of the career ladder in education. The personnel who are upwardly mobile tend to move up the promotion ladder through a "pipeline" to positions of increased authority from teacher to department head to assistant principal, etc.

In a 1972-73 study, women constituted only 18% of department heads, 20% of elementary school principals, 2.9% of public junior high school principals, 1.4% of public senior high school principals, and 0.1% of the public school superintendents in the country. 1/ The most current data available 2/ by sex on the number of men and women in administrative positions indicate that the percentage of women principals and assistant principals 3/ decreased between 1972-73 and the fall of 1976 from 21% to 13%. The percentage of

Table 1

Percent of Men and Women in Administrative Educational Positions

	Principals and Assistant Principals		Superintendents & Asst. Superinten.		Other Administrators	
	Men	Women	Men	Women	Men	Women
NEA* 1972	87,605 79%	13,381 21%	18,826 98%	401 2%	31,614 65%	16,874 35%
NCES** 1976	78,436 87%	11,659 13%	18,493 95%	1,062 5%	21,253 66%	10,973 34%

*National Education Association Research Bulletin, Volume 49, No. 3, Oct. 1971; National Education Association Research Report 1973-R5, 26th Biennial Salary and Staff Survey of Public School Professional Personnel, 1972-73.

**Only states reporting by sex which is 84.4% of total reported, National Center for Educational Statistics, Fall 1976.

1/ National Education Association Research Bulletin, Volume 49, No. 3, October 1971; National Education Association Research Report 1973-R5, 26th Biennial Salary and Staff Survey of Public School Professional Personnel, 1972-73.

2/ National Center for Educational Statistics, Fall 1976.

3/ These data do not break out principals from assistant principals.

women superintendents and assistant superintendents rose slightly from 2% to 5%, however, the data are not broken out separately for superintendents and assistant superintendents, so we are unable to determine at what level the gains have been made.

Forty percent of women superintendents are over 60 years old and very few are under 50 years of age; women principals are also mostly older women. When these older women retire, they are most likely to be replaced by men, since there are so few women in the "pipeline" prepared for advancement.

Women's relative lack of status as administrators is not warranted on the basis of qualifications for the positions; data on the courses they have taken, 1/ and their ability as principals 2/ support their availability and capacity to perform.

Forty-eight percent of those holding masters degrees in education are women. In 1974, women received 60% of all the masters degrees in education that were awarded. Coursework in educational administration is usually required for credentialing as a school administrator; 24% of the masters degrees awarded in educational administration between the years 1965 and 1975 were awarded to women; 3/ and the percentage of women enrolled is even higher.

1/ Kane, Roslyn D. Sex Discrimination in Education: A Study of Employment Practices Affecting Professional Personnel, Rj Associates, Inc.: Arlington, Virginia, April 1976.

2/ Howard, "Women Public School Teachers . . . Second Class?" 1974.

3/ Data from U. S. Department of Health, Education, and Welfare, National Center for Educational Statistics, Students Enrolled in Advanced Degrees (1967-1972), Earned Degrees Conferred (1968-1974).

The high percentage of women employed in the school system, together with the low and decreasing percentage of women in elementary and secondary school administrative positions, suggests that there are discriminatory practices and policies operating in a large number of the nation's school districts.

For every woman in an administrative job in a school district, there are nearly 100 men. Yet, there are two women professionals employed for every one man. It is unlikely that this ratio of men and women administrative employees could have happened by chance. Spokesmen for the school districts claim the reason there are so few women administrators is that there is a shortage of qualified women applicants. The national data put the lie to this claim. One of the primary foci of your investigation should be to show that in your district there are women with the qualifications to fill administrative slots.

The first step in your analysis will be to determine the number of women in your district who are qualified and available for positions as administrators. By comparing the number of qualified and available women with the number of men who are similarly qualified, you will be able to determine the percentage of women in the total pool of qualified and available persons (availability). Then, by comparing the percentage of women available with the percentage of women actually serving as administrators in your district, you will be able to determine if women are being underutilized at the administrative level in the school district. (The step-by-step instructions for collecting and analyzing this information begin on page 17.) Underutilization is a term of art. Proof of underutilization has certain implications for a discrimination suit; it also provides a strong foundation for further inquiry into the practices that have led to the situation. When the percentage of women administrators is much smaller than the percentage of women qualified and available for such positions, it is usually the result of discriminatory practices.

The school district may respond to proof of underutilization by arguing that, "Well, those are only the formal qualifications. When we say qualified women are not available, we are referring to those intangible qualities--

leadership, strength of character, etc., and there is no proof that the women have these qualities." From a legal point of view, underutilization looks only at the formal qualifications. In fact, the courts look unfavorably on the wholesale use of subjective factors, such as those "intangible qualities" mentioned above, when the end result is to discriminate against a particular race or sex. 1/

A. Issues in Determining the Availability and Underutilization of Qualified Women

Frequently, a school system accused of underutilization of women claims that the problem exists because of a lack of "qualified" women candidates. Qualifications for administrative positions are determined by a process of state certification for which there are formal prerequisites such as advanced degrees, course credits, experience and other presumably tangible measurements of an individual's ability to perform the particular job. Recent surveys have shown that there are more qualified women available than are being utilized in administrative positions. 2/ If this is true in your school district then it can be determined that your school district is suffering from "underutilization" of the available women. This will provide the foundation for getting into the "real" reasons men are being selected for administrative positions--the old boy "network," the informal unstated criteria--which have nothing to do with the availability or non-availability of women who meet the formal qualification criteria.

Since there are women who have the degree requirements, course credits, and experience, and therefore, either have been certified or could be certified, such women could be employed as administrators, principals, and superintendents in your school system. Still, before such a con-

1/ Examination of what intangible factors are used and how they are applied is important because it is when intangibles are factored in, that the discrimination--intentional or unintentional--occurs. The chapter on Hiring and Promotion examines those specific issues. However, for proving underutilization and using it in a legal or negotiating setting, all that needs to be considered are the formal criteria. This chapter focusses on investigating the formal criteria.

2/ Citations in Employment Practices.

tention can be asserted, you must be able to identify the specific formal requirements for certification for each particular position in question in your school system, and additionally, that there are women who possess these qualifications, who are available to be employed as administrators. Because these criteria are objective and standardized, it is easy to determine whether or not a candidate meets these formal criteria.

1. Formal Qualification Criteria

a. Certification

In most states, the system for certifying persons as qualified for teaching and administrative positions simply requires that the person show that s/he possesses the necessary degree(s), course credits, and experience. Some states also have special examinations, but their use is decreasing because recent court suits have found that such examinations generally are not related to the job to be performed. In most states, no list of certified individuals is maintained, particularly not by sex. A list of certified women, however, can easily be obtained through a survey of the women teachers in your school district.

b. Eligibility for Certification

To determine how many women in your school district have the formal qualifications to be certified, and, therefore, could be promoted to an administrative position such as principal, you must go beyond simply determining how many women have actually been certified. Many women meet the qualifications for certification, but because they perceive they have little chance of being promoted, have not formally applied to the State Department of Education for certification as administrators or superintendents. The number of available qualified women should include all the women with the necessary qualifications to become certified, including those who have not requested certification. Those women who have the course credits, the degree requirements, and the experience necessary for state certification are considered qualified and available for the purpose of determining utilization.

c. Temporary Provisions

Most states have provisions which permit school districts to temporarily waive certain or all of the requirements for a teaching or an administrative post. Such "provisional or temporary certificates" in most states can be awarded so the appointee can obtain the necessary course credits within one to five years after their appointment. For example, the job description may include the statement "other appropriate combinations of education and experience may be accepted upon specific approval of the superintendent of schools or his designated authorized representative." Upon obtaining these credits, the provisional appointment becomes permanent. If such provisions were applied equitably across the board, the number of qualified women would probably be much larger. More often than not, however, temporary certificates are awarded to men, which give them an unfair advantage over women in hiring or promotion. Since many of the existing men administrators achieved their positions through temporary certification, the available pool of women should include those women who could do the same thing, if given the opportunity. You should, therefore, examine the use of such temporary provisional certification by your school district. You should determine the number of instances in which such provisions have been used in the hiring or promotion process for men as compared to the number of instances in which they have been used for women, and you should determine the number of women who could qualify under the temporary provision.

2. Underutilization

Once you know the percentage of women in the total pool of those qualified and available for administrative positions in your district (availability), you can then determine if women are being underutilized by your district (underutilization). Underutilization of women is a situation which occurs when the percentage of women administrators, in the school system as a whole, is smaller than the percentage of women who are qualified to be administrators. Therefore, once the data on avail-

ability are collected, you must compare them to the percentage of women presently holding positions as administrators in the system. The data on the present makeup by sex of the administrative sector are easy to collect and the calculations and comparisons are relatively easy to complete. Section C beginning on page 17 provides the step-by-step instructions to determine if women in your district are being underutilized.

Proof of underutilization will give you the data you need to disprove the argument that the reason there are so few women in administrative positions is that so few are available. This can be extremely useful during negotiations with the district to alter their employment practices. However, proof of underutilization does not show, in and of itself, that discrimination exists. For a truly effective report, even if it is to be used only as a negotiation document, you must, additionally, examine the specific employment practices in the school district in order to show the discriminatory practices that have produced the underutilization.

Proof of underutilization can also be useful if your objective is to bring a legal case against the school district. In a law suit filed under Title VII of the Civil Rights Act of 1964, proof of underutilization can establish what is called prima facie evidence of discrimination without the need for any further evidence of overt discriminatory practice. If underutilization is shown, it has the effect of placing the burden on the school district to prove that the underutilization did <u>not</u> result from discriminatory practices. The theory behind this is that presentation of the raw data showing underutilization indicates something is amiss. Since the school district (or any other employer) is presumed to have a greater understanding of how its employment practices are carried out, and has greater access to its employment information, the courts have stated that the district is the appropriate party to show that the underutilization did not result from discriminatory practices. However, for a strong Title VII case, the complaining party should go

beyond proof of underutilization, and should be prepared to present its (the subject is party) own evidence on the existence of discriminatory practices. Therefore, while proving underutilization is an important step, it is only the beginning of the development of a Title VII case.

The regulations of Title IX of the Educational Amendments of 1972 impose additional, if less rigorous, remedial action on the school district, once underutilization has been found. However, before such remedial action is imposed by Title IX, it must be shown that there was actual discrimination in the patterns and practices of the school district, not simply underutilization of women. Without the additional proof of discriminatory practices by the school district, Title IX states only that a school district may be required to take affirmative action when underutilization is demonstrated. This means that the school district at its discretion may take affirmative action, but is not ordered to do so. If, however, discrimination can be proven, the school district will be required to take affirmative action to correct it.

It should be noted that the governments of some states have an affirmative action requirement for schools funded by state general revenues. In some cases, these programs have proven more effective in achieving affirmative action than the federal program. The state requirement should be researched by contacting the state board or commission which regulates employers according to the specific anti-discrimination law which governs them.

B. *This section provides a hypothetical school situation. The examples given show how underutilization was determined. To determine if underutilization exists in your school district, you will be following the same steps as given in the instructions beginning on page 17.*

Examples:

In our hypothetical situation, the state certification requirements for secondary school principals are as follows:

(a) *applicants must possess a master's degree in education;*

(b) *applicants must complete 12 hours coursework in educational administration;*

(c) *applicants must have at least three years teaching experience; and*

(d) *temporary certificates may be granted for a period of three years at the request of the local school superintendent. The above requirements must be completed during the period that the temporary certificate is in effect.*

In addition, the school district requires that an applicant for school principal must "be able to demonstrate the essential qualities of leadership and knowledge of administration necessary to permit him or her to perform in that position."

Let us now analyze these requirements as against the women employed in our hypothetical school district to determine the number of women who meet the formal criteria for certification. A review of personnel records shows that 25 women teachers and 75 men teachers in the district have their principal's certificates. It also shows that another 55 women and 15 men meet the requirements for certification but have not applied for certification. Finally, it shows that an additional 30 women and 30 men have a master's degree plus three years of teaching experience, but did not have 12 hours of coursework in educational administration. Persons in the last group would be eligible for temporary certificates if they were recommended by the superintendent, and if they could obtain the additional credits

within the three year period available under a temporary certificate. In conclusion, 110 women and 120 men already employed by the school district meet the formal qualifications for school principal. 1/ This means that 110 women comprise 48% of the pool of persons (230 men and women) within the school district who are available and qualified to be promoted to the position of school principal.

Table 2

Secondary School Principals

Availability

	Men	Women
Number presently holding certificate	75	25
Number who presently qualify for certificate but have not applied	15	55
Number who could qualify for a temporary certificate	30	30
Total	120	110
% of total	52%	48%

The next step is to determine the past record of hiring and promotion. Information obtained from the school district indicates that there have been nine secondary school principal appointments in the past five years. Only one woman (11%) was appointed.

1/ *For the purposes of this model, we will not seek applicants beyond the school district.*

Table 3

Secondary School Principals Appointed in

Last Five Years

Utilization

	Men	Women
Number appointed	8	1
Percent	89%	11%

Therefore, women represent 48% of the available and qualified pool, yet only 11% of the administrative appointments have gone to women. Clearly, patterns of underutilization of women as school principals exist in this school district, where there are qualified women available who could have been appointed and only one was appointed. From this information it now can be shown that women are underutilized in the school district.

Action Steps:

C. Collecting the Data and Doing the Calculations on Availability and Underutilization

To begin a study of availability and underutilization, you should collect the following information:

1. A list of formal qualifications for certification of administrators and superintendents in your state. Certification criteria can be obtained from your school district or by writing the State Board of Education. It will tell you what formal qualifications are necessary for any specified position. In addition, the job descriptions for each administrative position should be obtained from your school district. These job descriptions will define any additional criteria required by your local school district for the position.

2. The next step is to collect information that describes the educational background and work experience for each

of the professional employees (teachers and administrators) in your school district. You should request that the school district provide you with this information. The information that you need for each individual is: degrees, postgraduate courses, years of teaching, certificates held.

A school district may hesitate to give you this information. They may not have staff available to spend the time going through the records to get the information you have requested. Under these circumstances, you should offer to compile the information yourself or to pay for staff time or overtime to compile the information.

A school district may feel that releasing such information violates the privacy of its employees. In this case, you should be aware that Family Education Rights and Privacy Act pertains only to students records. This law does not contain restrictions on the release of information regarding employees. There may, however, be a state privacy law which prohibits the release of such information.

If a privacy law is in effect which prohibits the release of personally identifiable information, you should explain that you do not need, nor do you particularly want, the names of individuals. You would like the information without the names. You do not need personally identifiable information. You can determine availability through examining the qualifications that appear without having to know the name of the person. You should assure the school district that anyone using the records will be fully trained in privacy protection issues and that the information will only be used in a non-personal identifiable form.

If the school district still refuses to provide you with the information you are requesting, there are two other strategies you can use. You can seek the support of a member of the

school board. A sympathetic member of the school board can bring the matter before the school board and ask the school board to instruct the school district to provide you with the information you are requesting.

If there appears to be no way to obtain the information from the school district, you can obtain the information you need by circulating a form such as the one that appears in Form 1 to all professional educational personnel. A good method for distributing the form is to enclose it in the pay envelope, or through union or association notices or correspondence going to all employees.

3. Once you have gathered all the information, you should enter the information on Table 2. (Table 2 is the same as the table that was used in the example.)

To enter the information, go through each form (the one that appears in Form 1). Mark on Table 2 if the individual: (1) presently holds a certificate; (2) is presently qualified for a certificate but has not applied; (3) could qualify for a temporary certificate.

<u>You will need a separate table for principals, superintendents and other administrators if the certification requirements are different for these positions</u>. If the requirements are different, go through the Form 1's for each set of requirements. Enter the information for each position on the separate tables. Extra tables are provided for different positions.

The tables at the end of the chapter are intended for you to work with. Duplicates of Tables 5-19a appear in the Appendix.

4. Your next step is to determine the number of men and women appointed to administrative positions in the past five years. It is a good idea to examine at least three appointments; if yours is

a small school district, this may require going back further than five years, but it will certainly strengthen your case. Note again, that there are individual tables for elementary, junior high, senior high and central administration appointments. These tables are the same as the table used in the example.

Now you can compare the number of those men and women who were appointed (Table 3) with the number of men and women who potentially could have applied (Table 2). You will be able to determine the actual utilization of men and women for each administrative position in your school district. To do this you should calculate the percentage of the total number of people appointed that are women (Table 3). Then calculate the percentage of the total number who qualify for appointment who are women (Table 2). If the percentage of women who were appointed is less than the percentage of women who qualify for appointment, then women are being underutilized in your school district.

Form 1. -- Information Form Distributed to All Professional Educational Personnel

Position now held: Title _____

School level _____

Sex _____ Race _____

Highest degree held:

BA, Area of Specialty _____

MA, Area of Specialty _____

Ph.D., Area of Specialty _____

Courses beyond highest degree held:

Type of Course	Number of Hours
_____	_____
_____	_____
_____	_____
_____	_____

Number of years teaching experience:

Elementary _____

Junior High _____

Senior High _____

Other educational experience:

Describe	Number of Years
_____	_____
_____	_____
_____	_____
_____	_____

Form 1. -- Information Form Distributed to All Professional Educational Personnel (continued)

Administrative experience:

Describe	Number of Years
_____	_____
_____	_____
_____	_____
_____	_____

Are you certified to hold any administrative position? List positions.

_____

_____

_____

_____

Have you ever applied for an administrative position?

Name of Position	Number of Times Applied
_____	_____
_____	_____
_____	_____
_____	_____

Name (if willing) _____

Table 2. -- Position: Elementary School Principals

	Availability	
	Men	Women
Number presently holding certificate		
Number who presently qualify for certificate but have not applied		
Number who qualify for a temporary certificate		
Total		
Percent of total		

Table 2. -- Position: Secondary School Principals

	Availability	
	Men	Women
Number presently holding certificate		
Number who presently qualify for certificate but have not applied		
Number who qualify for a temporary certificate		
Total		
Percent of total		

Table 2. -- Position: Superintendent

	Availability	
	Men	Women
Number presently holding certificate		
Number who presently qualify for certificate but have not applied		
Number who qualify for a temporary certificate		
Total		
Percent of Total		

Table 2. -- Position: _____

	Availability	
	Men	Women
Number presently holding certificate		
Number who presently qualify for certificate but have not applied		
Number who qualify for a temporary certificate		
Total		
Percent of total		

Table 3. -- Position: Elementary School Principals
Appointed in Last Five Years

	Utilization	
	Men	Women
Never appointed		
Percent		

Table 3. -- Position: Secondary School Principals
Appointed in Last Five Years

	Utilization	
	Men	Women
Number appointed		
Percent		

Table 3. -- Position: _____
Appointed in Last Five Years

	Utilization	
	Men	Women
Number appointed		
Percent		

III. Hiring and Promotion of Administrators

It is likely that your analysis of underutilization will disclose that a greater percentage of women are available and qualified for administrative positions than are being promoted. The next step is to find out why. Possibly, it can be explained by non-discriminatory factors, e.g., that women are not interested in becoming administrators. 1/ It is much more likely that your investigation will disclose that the underutilization of women in administrative positions is caused by discriminatory practices and procedures built into the hiring and promotion procedure.

There may not be an intentional effort to discriminate. Whether intentional or not, these practices--the "old boy" system, the pipeline, the use of informal hiring criteria, all male interview panels, etc.--all work very effectively to exclude women from the administrative ranks. Once you are able to identify and document these discriminatory factors, you can begin to eliminate them through use of political, organizational, and legal tools that are described in Chapter VII.

A. Explanation of Issues Surrounding the Use of Informal, Sex-Biased Hiring Criteria

Probably the most harmful hiring practice is the use of informal hiring criteria which strongly favor male applicants in determining which applicant is most capable of doing the job. Since it is common for several applicants to meet the formal criteria for an administrative position, those making the hiring decision must turn to other criteria for selecting among the formally qualified. It is clear that the decision-makers do not necessarily select the person who best meets the formal criteria. If that were the case, in a situation where the formal criteria required that an applicant have a minimum of three years teaching experience to become an elementary school assistant principal, a woman applicant with 15 years of elementary school experience would presumably be selected over a man with only three years of teaching experience in high school. However, since too often a man who meets the minimum criteria gets

1/ If this is found to be the cause, perhaps your organization should initiate a program to encourage women to apply.

selected, it is clear that the decision-makers treat the formal criteria as merely threshold factors. Once an applicant's qualifications pass that threshold, the decision-makers turn to other criteria to select among those qualified. Those other criteria usually turn on the decision-makers' personal evaluation of the candidates "leadership potential," "career interest," and similar informal, subjective, unstated factors. The decision-makers are in most cases male and their personal evaluations are based on a range of sex stereotyped assumptions that favor men applicants and handicap women applicants--such as the belief that "leadership" is synonomous with physical strength, or equating coaching a successful football team with the requisite qualities to be a principal. Men decision-makers may truly believe that women are not interested or capable of assuming administrative responsibilities.

Until informal criteria are spelled out and the subjective stereotyped assumptions brought to the surface where they can be refuted, women will continue to be at a disadvantage in the promotion process. Fortunately, the need to do just this--spell out informal criteria--for all employers, has been recognized by the employment rights enforcement agencies, and they have provided some legal tools to combat the practice. The goal of this part of your examination is to discover, expose, and eventually change the discriminatory use of <u>informal criteria</u> in the promotion process. The different manifestations of these discriminatory practices are detailed in this section. At the end of the chapter there is a description of the investigatory techniques--content analysis of the applications of successful and unsuccessful applicants--that you can use to document the way discriminatory practices are operating in your district. The sections that follow are divided into two sections: "male-positive assumptions," and "female-negative assumptions," that are used when applying informal criteria.

1. Male-Positive Assumptions

Despite many studies showing that women make as good or better administrators than do men, there is a widespread belief in this country that men are innately the better administrators. This belief is often factored into hiring decisions through such phrases in the job announcement as "leadership ability." Decision-makers often measure leadership ability by looking for such qualities as "toughness" or "go-getter," qualities which they assume are present only in men or in women who act like men. This "macho" definition of leadership or administrative ability is perhaps best manifested by the large number of men administrators who have been successful coaches of football, baseball, or basketball teams.

There are a number of programmatic and legal problems with the way leadership is defined to favor male applicants. First, it is not at all clear that "toughness" and similar "male-positive" qualities are as important in defining a good leader or administrator as is a person's ability to involve the entire faculty in decision-making, the ability to relate to others, etc. By applying the male-positive assumptions about leadership, the decision-makers are using invalid job qualification criteria--i.e., criteria which do not measure the actual qualities needed to successfully perform on the job. Invalid job criteria which discriminate against women applicants are specifically cited by the EEOC guidelines as being discriminatory. Therefore, one of your first tasks is to bring these unstated assumptions to the surface where they can be examined for their validity, and then challenged if they favor men, and/or do not measure the qualities that are essential to carrying out the responsibility of an effective administrator.

Title VII can help to force the decision-makers to spell out these unstated assumptions, because the use of subjective criteria provides fertile grounds for making assumptions that are discriminatory, in their results, whether or not they are discriminatory in intent. EEOC frowns upon the use of such criteria and requires that criteria be objective,

and subject to measurable terms, to the extent possible, particularly if the end result has excluded women or other protected classes. Therefore, you can use the filing, or threat of filing, of a Title VII complaint to force the decision-makers in your district to put down on paper the informal criteria they use to select among those meeting the formal criteria, and the measures they use when applying their informal criteria.

In summary, society has internalized a host of attitudes about the relative capability of men and women. One of these is the invalid belief that leadership requires qualities associated with men, and that men, therefore, make better leaders. These attitudes are at work in the informal decision-making process, and make it much more difficult for women to be appointed to administrative positions. While it may take years for these attitudes to disappear from society as a whole, you do not have to wait for that to happen in order to stop their pernicious impact in your school district. The legal tools are available to assist you to force those attitudes out in the open, to expose them as invalid job criteria, and to eliminate them as factors in the promotion decision process.

2. Female-Negative Assumptions

Paralleling the male-positive assumptions regarding leadership are a set of negative assumptions or stereotypes regarding women's attitudes about careers and work--that women are not interested in careers, that they do not want responsibility,etc. Like the male-positive assumptions, these attitudes, as they affect the hiring process, must be brought into the open where they can be examined, challenged and discarded.

In some school districts, women may be denied appointment because it is suspected that staff will object to working with a female administrator. Men who are not accustomed to female peers are uncomfortable with the idea of placing a woman in an administrative job.

Another rationale based upon sex stereotyping assumes that women only enter the occupational world as a short adventure between school and marriage; that they work only to supplement the family income; and that childcare responsibilities preclude women from assuming more responsible positions. Although research shows that as many men as women interrupt their careers, men do not pay the same penalty for it. Men are never denied employment because they have children, only women are denied employment or advancement because they have children. Yet, the present trend is for women who are highly educated not to leave the labor force at all, or to leave for only short periods of time in connection with childbirth.

A woman may also be denied a promotion because of the "breadwinner" theory of employment. If the woman has a husband who is employed, her job, promotion, or salary increase may not be considered a necessity, and, therefore, she isn't given serious consideration for upgrading. A man is always assumed to be the breadwinner, and even if he is married, he is never denied a job, raise or a promotion because his wife works. Only women are denied employment because their husbands work.

As with the "male-positive"assumptions, these attitudes and conclusions about the role of women in the work force have no validity and are unrelated to the ability of an individual woman applicant to perform the job. Through your investigation, their use can be identified, and using the same legal tools discussed in the section on the male-positive assumptions, they can be eradicated.

3. The Pipeline

It is likely that your investigation will disclose situations in which the successful male applicant was the most qualified, in that he has had a wide range of experience in lower-level administrative positions--department head, intern, acting principal when the principal was out of town, or was assigned the role of coordinator of special projects, etc. A person who has had these opportunities clearly has an advantage in obtaining a promotion. The objective of this part of your study is to

determine how the original selections for these opportunities were made, and whether women were given equal access to them. Too often the persons doing the selecting are not accountable to anyone for their decisions, and they use these opportunities to push their hand-picked candidates up the pipeline until they are in an unbeatable position, as far as formal measurable criteria are concerned, when the time comes for formal promotion decision to be made. Evidence has indicated that usually the persons doing the selecting for these opportunities and the persons being selected are men, and that the male-controlled pipeline is, in itself, another device that serves to handicap women in their effort to obtain administrative positions.

Example

The Informal Criteria and Pipeline at Work

In the past three years in the school district example, there have been three appointments of elementary school principals. The retiring elementary school principals were women; their replacements were men. The average length of time that the other remaining principals in the school district have held their positions is 8.6 years for the men, and 16.1 years for the women, indicating the length of time since a woman had been appointed in the district.

The qualifications of the three men who were appointed were as follows: 1/

SCHOOL NO. 1 -- Male, high school teacher for five years; no elementary school teaching experience; master's degree in educational administration; coach of a winning high school basketball team; participation in three "leadership" workshops; 2/ held a principal's certificate at the time of appointment.

1/ This information was gathered on Information Form (Form 1 in Chapter II).

2/ Participants in the workshops were selected by the superintendent, and participants in the last three workshops were ten men and two women.

SCHOOL NO. 2 -- Male, assistant principal in junior high school for two years; counselor in junior high school for three years; teacher in junior high school for three years; master's degree in guidance and counseling; no courses in educational administration; participated in two of the "leadership" workshops; at the recommendation of the superintendent received a temporary principal's certificate; now taking courses at night and over the summer in educational administration.

SCHOOL NO. 3 -- Male, elementary school teacher for five years; master's degree in mathematics education, fourteen hours of educational administration; coach of boys elementary school football team; assistant superintendent for elementary schools in establishing a new district-wide mathematics program; appointed to position temporarily on the recommendation of principal (male) in his school; obtained principal's certificate upon appointment.

At School No. 1, there were 15 applicants, ten men and five women. School No. 2 had 12 applicants, six men and six women. School No. 3 had ten applicants, seven men and three women. All of the applicants held master's degrees in education and at least three years teaching experience. Of the 23 men who applied, ten had three to five years teaching experience in elementary schools; the remaining 13 had five to ten years teaching experience in junior high schools. All of the 14 women had ten or more years of teaching experience in elementary schools.

Of the 14 women applicants, three women had a principal's certificate; additionally, three women had a master's degree in elementary educational administration; another six women had 12 or more hours of educational administration and supervision; and one other woman had a master's degree in elementary education administration and was working on her doctorate in that field. This particular woman had taught educational supervision for two years at the local teaching university. One woman was an assistant principal of an elementary school. No woman had been

selected to attend a "leadership" workshop, although three women had applied--the assistant principal, the other two women who had a principal's certificate.

Only the woman assistant principal qualified for an oral interview. She had a master's degree in elementary educational supervision and had been an elementary school teacher for 12 years and an assistant principal for five years. She held a principal's certificate. She was 40 years old. When interviewed, she indicated that she had been questioned concerning conflicts between her marital and parental status and her existing job. She felt that the combination of being a woman and "too old" kept her from being appointed to the position.

In addition, it was determined from personnel records that an additional 66 women employed in the school district had 12 or more hours in educational administration. Ten women teachers who had not applied had a master's degree in educational administration. Ten women had principal's certificates and one woman had her doctorate and was working as a department head.

A questionnaire was circulated both to the applicants and to the women who could have qualified but did not apply for any of the positions. Among the reasons women gave for not applying for the positions are the following: ten women indicated that they had applied several times in the past, had not been appointed and were, therefore, discouraged; ten indicated that they did not know that they were qualified; five indicated that they had inquired about applying and had been told, "that there were others more qualified" and had been discouraged; 15 felt that they would not be appointed, and therefore, had never applied.

There is no question that women who were qualified were available for all three positions as elementary school principal. In addition, it would appear that those persons who made the decision with respect to who would be chosen to fill the vacancies preferred to fill the positions

with men. This is obvious if only because the qualifications of a number of the women who applied were equal to, or in some cases greater than those of the men who were selected for the positions.

For the position in School No. 1 in the example, the questions to be considered are:

(a) Did the fact that the applicant had been a high school basketball coach serve as an informal qualification to be an elementary school principal?

(b) What are the other "extra" qualifications which were considered the determining factors?

(c) If participation in "leadership" workshops is a key factor, why were most men selected and why weren't more women selected?

For the position in School No. 2, the question of the relationship between the superintendent and the male assistant principal is an added consideration. Here, we find the classic "pipeline" advancement. The key is determining what factors initiated this man's entry into the "pipeline," what brought him into the "pipeline" while denying others entry, and what factors set him apart from others, placing him in the position with a temporary certification, while there were others applying who already had acquired certification. The position in School No. 3 only confirms the fact that there are patterns of discriminatory practices in the school district that work against women, and serve to assure that male applicants will be appointed as principals.

Although several of the women applicants for principalships in the school were as qualified or better qualified by formal standards, none were hired. Two of the three men who filled the vacancies had coached a boys' athletic team. It is not difficult to conclude that coaching a basketball, baseball, or football team is an informal criterion for employ-

ment as a principal. When faced with the facts that there were qualified women who could fill the positions; that women applicants had more teaching experience than the men; that some women had more academic qualifications; that women were discouraged by headquarters from applying for the position because there were other applicants who were more qualified; clearly, formal criteria associated with degrees, and years of teaching experience were not the critical factors. The school district appears to have exercised a preference by imposing informal criteria such as athletic coaching, or participation in a leadership workshop that did not permit the equal participation of women, or being in the pipeline, and as a result, deviating from the specified formal criteria.

A determination of who gets appointed is possible only through a painstaking analysis of the appointments; those persons participating in the decision; those persons applying for the position; and those persons who were qualified for the position.

4. The Patron System

It is not uncommon for a "patron" to select someone for a temporary position which gives that person an edge on getting the job. Many such jobs are filled temporarily at first, which places them in the position of being the obvious contender when the job is permanently filled.

Example

While a student in high school, JJ developed a friendship with the principal of the high school, who recently became superintendent of the school system. When JJ was hired as a high school teacher, the closeness to the new superintendent was resumed. Over the years, JJ, under the superintendent's direction, progressed by carrying out special assignments for the superintendent. He also was assistant basketball coach for the high school team. Two years later, he became coach of the basketball team.

In the middle of the school year, seven years after starting in the school district, a principal was asked to resign. The superintendent

advised the school board to appoint JJ as acting principal until the following August, when a permanent appointment could be made.

By the time the board was ready to make a permanent appointment, JJ had become the "logical choice," having done a commendable job over the previous six months in that position.

The superintendent's activities on behalf of JJ is an employment practice which helps men in their career pursuits as part of the patron-mentor system, but which generally does not help women. Although there was no apparent intent to discriminate against a woman, intent was not the issue. Under the circumstances, no woman, no matter how qualified, could have competed for the job,and that served to discriminate against all women.

B. Issues Surrounding the Hiring and Promotion Process

The third major source of discrimination, in addition to the use of biased informal criteria and the patron system, is in the various stages of the hiring process itself--the discriminatory factors at work at each step that serve as barriers to women applicants.

1. Recruitment and Referral

How applicants are recruited for jobs can have tremendous bearing on who gets the job. First of all, whether or not a person hears about the job determines whether or not s/he applies. Most people hear about a job through word of mouth frequently before it is formally posted. Usually, word is passed along a closed loop through the "old boy" system, an informal communications network that is usually made up of men. The network may extend to male-dominated professional associations, university departments of educational administration, university placement services, search committees within the district school system, or simply via the "old boy network" in the school district. If all principals hired in the past few years were referred by the Chairman of the Depart-

ment of Educational Administration at the local university, and the Chairman only refers men, then utilizing this source has a discriminatory impact. The important thing is that such informal networks usually exclude women, so women often are not informed about the opening, or they may hear about it too late in the process, perhaps even after the decision has already been made.

Also, there is the actual advertisement itself. There are several ways that an advertisement for a particular position can discriminate against women. A school district may advertise in a newspaper outside the district and use only a box number address so women in the district don't know the job is available, while informing men by word of mouth that the position is available. The advertisement may appear so late that the candidate has already been selected, and the advertisement is simply responding to a contractual requirement. The wording of the advertisement also may be discriminatory. It may be written in a manner that discourages women from applying, perhaps by referring to the applicant as "he" rather than s/he.

2. Job Description

If the school district changes its job descriptions frequently, it is probably writing them to fit a particular individual who has already been selected for a job. Sometimes the job description is written after the person has informally been selected in order to fit the qualifications of the person selected; therefore, the date that the job description was written is important. The job description may also be written to encourage men and discourage women from applying. For example, job descriptions for principalships in a school district may require that the applicant be employed as an assistant principal by the school district. If all the assistant principals are men, this may automatically eliminate women.

Example

Job description for assistant high school principal prior to 1974: Assistant high school principal certification; master's degree in education; five

years teaching experience; demonstrable leadership ability, and ability to get along well with others; ability to delegate and supervise tasks.

Job description for assistant high school principal in 1974: Assistant high school principal certification; master's degree in educational administration; three years teaching experience; demonstrable leadership ability and ability to influence and direct students; ability to delegate tasks; ability to discipline and work well with students.

The changes made at the beginning in January of 1974, included:

- *Master's degree in education--to a master's degree in educational administration.*
- *Five years teaching experience--to three years teaching experience.*
- *Ability to get along with others--to the ability to influence and direct students.*
- *Ability to delegate and supervise tasks--to ability to delegate tasks.*

One of the applicants for the job was the woman assistant high school principal. She had 12 years experience as a teacher prior to being named as assistant high school principal. She was well liked and had an excellent reputation as a good administrator. She had a master's degree in education and the twelve hours of educational administration necessary to obtain a high school principal's certificate in the state. She was clearly qualified under the job description at the time of the death of the principal.

In March of 1974, MM was named as high school principal to replace TT, the woman high school principal who had died in December, 1973. MM, was the male Chief Counselor at the high school, he held a master's degree in educational administration, had only taught for three years. His administrative experience was limited to supervising the two other counselors on his staff. The changes in the job description emphasized all the strengths of the Chief Counselor, and downgraded all the strengths of the woman assistant school principal. It added a new requirement of an MA in

educational administration which she did not possess. Since she was a good administrator, changing this requirement can only suggest that it was added specifically to disqualify her.

3. Recommendations

Recommendations are an important part of the screening process. Although they seem an impartial requirement, women often face discriminatory treatment here. Most school districts request recommendations from the applicant or ask for the names of persons who may be consulted as references. It is important to know what happens to the recommendations and references. It is valuable to know if references are obtained and obtained promptly from and for women as well as men. It is important that recommendations from women should carry as much weight as those from men.

This particular type of information is very difficult to gather. You may have to rely on information gathered from individual women applicants who, under the Sunshine Law, are entitled to see their own personnel file. Presumably, this would entitle an individual to review any recommendations written to that file. If important recommendations are missing, one can assume they were not asked for.

Another source of information would be consulting persons who have sat on the various committees considering applications to determine how recommendations are handled.

4. Review Panels

The oral interview is usually conducted by a review panel. Who sits on the panel is important in determining discriminatory practices. Is the panel sensitive to the issue of sex discrimination? Did anyone warn the panel against discriminatory evaluation?

The composition of the panel may be discriminatory, i.e., have no women on the panel, or have women who are known to oppose women administrators. Underutilization of women in the school district perpetuates the underutilization of women on review panels.

5. Interviews

Nowhere in the screening process is a woman more vulnerable than during the oral interview. The interview takes place in private; there are no witnesses except the panelists and the person being interviewed, and usually no records are kept. Since it is difficult to establish objective criteria, subjective judgments take over and biases easily come into play. Since the person or persons conducting the interviews are most often men, it is during the interview that the most obvious sexist attitudes are displayed.

Questions asked of a woman during the interview that are not asked of a man constitute discrimination under Title VII and other laws. For example, women are often queried about their personal lives. If a woman has children, she may be queried about her childcare arrangements. If she has no children, she is asked whether she plans to have any. If she is single, she is asked if she plans to marry. If she is married, she is questioned concerning her husband's job mobility, or her ability to commute to the job.

Women are also asked questions that are job-related that are not asked of men. It is not uncommon for a woman to be asked how she would handle the jealousy of other women on her staff; how she would be able to relate to the men who might resent working for a woman, etc. If similar questions are not asked of men, then it is illegal, and indicates a preference for a man at the outset.

A candidate for employment has some control over the system at each level of their application with the possible exception of the interview stage. At the interview stage, the decisions are made largely on the basis of subjective responses. It is for this reason that, when all other objective elements found to be discriminatory in employment have been eliminated, discriminatory practices during the interview should be closely studied, because the results of such interviews are

most likely to be discriminatory in fact, if not in intent. While questions such as those in the example violate a woman's right not to be subjected to discrimination, it is very difficult to collect witnesses to such statements, and as a result, to be able to prove the abuse. Interviews, indeed, have been and are likely to continue to be discriminatory and perpetuate a bias on a conscious or unconscious level. Yet, the only sources of information are the applicants themselves, and any members of the panel who would be willing to discuss their experiences.

C. Collecting and Analyzing the Information

This will be the hardest section to document and the hardest area in which to prove discrimination, since it is least responsive to precise measurement or definitions.

1. Your first step will be to determine the qualifications of all persons identified in the last chapter as having been appointed to administrative positions in the last five years. Ask the school district to provide you with the following information for each person appointed to an administrative position:

   Educational background (degrees and number of hours of advanced coursework beyond degrees, specifying courses and major fields)

   Certificates held at time of appointment

   Administrative experience

   Other leadership experience

   Any other special experience that qualified them for the job.

2. You should also secure from the school district a copy of all job descriptions for the administrative positions that have been issued during the past five years. Examine the job descriptions for any changes from year-to-year. If there have been any changes, compare the changes to the qualifications of the persons who were appointed to the position to determine if the change in job descriptions fits specifically any person who was appointed shortly thereafter.

3. Interview the Director of Personnel (or the Superintendent). Ask them to explain precisely what is meant by the "informal"criteria included in the job descriptions for all administrative positions. Questionnaire 1 can be used as an example of questions to be asked of Superintendent or Director of Personnel. Do not accept glib responses. Press the Superintendent on precise definitions, review process, job advertisement methods and importance of various leadership experiences.

4. Ask the school district for a list of all the persons and their job titles who participated on a review panel during the previous five years. This is public information, and cannot legally be denied to you. Determine from the list how many and what percentage of the review panel members were men and women.

5. Ask the school district to provide you with a list of all the people who have applied for administrative positions during the last five years and their qualifications. If you get the names of the individuals from the school district, but not their qualifications, you can get the information by distributing the Information Form (Form 1, previous chapter) to the applicants to determine their qualifications. If you are unable to obtain their names, then you may have to send the form to the entire school or start with those you know applied and through them see if you can identify others who applied.

6. Perhaps the most useful approach is to develop a questionnaire. If you have already circulated the Information Form to all employees, you can identify all women who qualify for an administrative position (see Questionnaire 2)--not only all women who did apply, but also those who could have qualified but who did not apply.

You may need to adjust some of these questions in light of the particular circumstances of your school district. The questionnaires are intended to be merely a guide for the type of information you will want to obtain.

After you have received a written response you may want to interview several of the applicants and those who are qualified but did not apply, to further document your findings.

7. Questionnaires should also be sent to panelists that are likely to be friendly (see Questionnaire 3). You may also want to interview one or more of them, to obtain further clarification.

Questionnaire 1.-- Questions for Oral Interviews with Superintendent/Director of Personnel

1. Do you encourage (discourage) persons to apply for administrative positions? Men? _____ Women? _____

2. How are people informed that positions exist? Do you advertise for such positions? If so, in what publications do you advertise?

3. Do you have copies of advertisements that have been used? (If yes, ask for copies.)

4. How do you evaluate the informal criteria that are required on the job descriptions? (See Chapter III, pp. 26-35, for description of informal criteria.)

5. Why have so few women been appointed to administrative positions in the school district?

6. How does the system for review of applicants operate? How do you select those that are given an oral interview?

7. Do you get recommendations from outside the school system? From whom? How often do the persons so recommended get appointed?

8. Does the school system have a leadership workshop, or other system, to encourage those who show potential for advancement? Can you provide a list of the applicants/participants for the last three years? If yes, how are the persons selected for participation?

9. Is coaching an athletic team a valuable experience for those interested in appointment to an administrative position?

10. How many of those appointed have already served in the position on a temporary basis? How do they obtain such temporary appointments?

11. Are any efforts being made in the district to increase the number of women in administrative positions? Describe the efforts. Have they been successful?

Questionnaire 2.-- Questions for Women Applicants or Those Who Could Qualify for Administrative Positions

1. Have you applied for any workshop, in-service training program, other programs for upgrading your likelihood to be appointed to an administrative position? Yes ___ No ___ In how many were you accepted? In how many were you refused? _____ Were you given a reason if you were refused? _____

   Yes _____ How many _____ No _____

2. Why did you not apply for any administrative position for which you were qualified?

   _____

   _____

   _____

3. Did anyone discourage you from applying? Yes ____ No ____ If yes, describe.

   _____

   _____

   _____

4. What questions do you feel you should have been asked but were not asked regarding your qualifications?

   _____

   _____

   _____

   Answer the following only if you applied for an administrative position.

5. Do you have any special awards, experience, that particularly qualify you for the position? Yes ____ No ____ If yes, describe.

   _____

   _____

   _____

(Questionnaire 2 continued)

6. How did you become aware of the position? _____

7. Do you think you had adequate time to apply? Yes ____ No ____

8. Did you give men or women's names as references? (Answer by number of names given.) Women _____ Men ____

9. Do you know if they were contacted? Yes _____ No _____

10. Did they support your candidacy? (Answer if you know.) Yes _____ No _____

Answer only if you had an oral interview.

11. Were you asked questions about your marital status? (Whether your husband was likely to move and change jobs, whether he approved of your accepting an administrative position, etc.) Yes _____ No _____ If yes, describe.

12. Was the question of care of children discussed (how you would care for your children in light of additional responsibilities, who would care for your children if they were ill, etc.)? Yes _____ No _____ If yes, describe.

13. Were any other questions asked that seemed likely to be asked only of women? (How will you maintain discipline? How will you manage if some of the staff oppose a woman principal?, etc.) Yes _____ No _____ If yes, describe.

(Questionnaire 2 continued)

---

14. Did the panel seem friendly, and willing to appoint a woman? Yes _____ No _____ Describe.

_____

_____

_____

15. Why do you think you were not appointed? _____

_____

_____

_____

Questionnaire 3.-- Questions to Member(s) of Review Panel

1. Did anyone suggest the need to judge applicants fairly, avoiding bias on the basis of race and sex?

   Race: Yes ___ No ___ Sex: Yes____ No ____

2. Did you interview any women? Yes _____ No _____
   If you did, were any questions asked of the women that were not asked of men? Yes _____ No _____
   Describe.

3. Did the women receive as fair an evaluation of their capabilities as the men? Yes _____ No _____

4. What do you see as the critical factors that made the panel select the person(s) chosen?

   _____

   _____

   _____

5. Were informal criteria such as leadership qualities, ability to get along with staff, considered important qualifications? Yes _____ No _____ If yes, how did the panel make their decision that one person had the informal qualifications and another did not?

   _____

   _____

   _____

6. Did anyone seem to be particularly committed to the candidate who was appointed? Yes _____ No _____

Any other comments.

_____

_____

_____

IV. Employment of Teachers

A. Explanation

In the United States, teaching in elementary and secondary schools has been regarded as a traditionally woman-dominated profession, but women are increasingly less represented in teaching positions in elementary and secondary schools across the country. While there is still a greater number of women in the system, the proportion of women at the instructional as well as the administrative level has been dropping steadily over the past thirty-five years. Since the end of World War II, the proportion of men entering the field of education has increased slowly, spurred by opportunities provided through the GI Bill of Rights, efforts to "upgrade the teaching profession," and efforts to "de-feminize" the profession, particularly at the secondary school level. School systems have held the belief that the heavy preponderance of women teachers in the school system causes male students to be "feminized." 1/ Many educators now consider it desirable for children to have men teachers at the elementary level, as well as the secondary school level. 2/

The overall picture of the increase of men teachers in both the elementary and secondary schools is as follows:

Table 4

Increase of Men Teachers in Elementary and Secondary Schools

Year	Men Teachers		
	Percent of All Teachers	Percent of Secondary School Teachers	Percent of Elementary School Teachers
1947 - 49	19	42	9
1957 - 58	27	52	13
1967 - 68	32	53	15
1973 - 74	33	53	16

SOURCE: U.S. Department of Health, Education, and Welfare, National Center for Educational Statistics, Elementary and Secondary School Survey 1959-60 through 1973-74.

1/ Howard, Suzanne. "Women Public School Teachers: Second Class, Second Rank, Second Rate?" paper prepared for Resource Center on Sex Roles in Education, Washington, D.C.: National Foundation for the Improvement of Education.

2/ Ibid.

Our society relates status and prestige in teaching to the age of the children who are being taught. Higher status and salary are accorded to teachers at the higher grade levels. Few men are employed at the elementary level; slightly more men are employed at the intermediate level. Since 1959-60, more men than women have been employed at the high school level.

Very little attention has been given to the shift in the percentage of women as teachers at the elementary and secondary school level. What little attention has been given to differences in sex patterns in employment practices at the elementary and secondary school levels has concentrated on the principals and administrators. Little or no attention has been given to the hiring practices that affect the largest body of women professionals, namely the teachers. There are few guidelines in analyzing employment practices in the hiring of elementary and secondary school teachers to indicate the type of practices that have been utilized to encourage men teachers over women teachers, but this is largely due to the fact that it has been so rarely challenged or documented. Nonetheless, if underutilization can be shown in a school district, the responsibility rests with the school to prove that this practice is <u>not</u> discriminating against women teachers.

The data suggest that when a choice is made in a school district between hiring a man or woman as a teacher, the man has the advantage at every level. To examine this further, one should examine the shift in the men and women teaching in your school district, at elementary, intermediate and secondary school level, 10 years ago (and even 15 years ago, if such data can be obtained) and compare that with the distribution today.

In a sense, in examining the evidence of discriminatory practice in the employment of teachers, you are using the same process used to evaluate the availability and underutilization of women administrators. However, the present strong numerical position of women teachers does not follow the pattern of women administrators--who went from a majority of the admini-

strators in the 1920's to their present token presence in the ranks of educational administrators. That is, you are determining the percentage of the pool of available teachers that are women; and then comparing that percentage to the percentage of the recent teacher hires that are women. If the percent of available women is higher than the percent of women being hired, then men are being selected over women which has been held as discriminatory in recent court decisions. This would provide the foundation for a team investigating the practices that have created this situation. Hiring practices which favor one sex, in this case men teacher applicants, are discriminatory, even though women continue to constitute the majority of teachers.

Women's groups who do challenge local school districts based on their discriminatory practices in the hiring of teachers should document their experience in order to share their findings with other school districts who decide to challenge on the same basis.

Availability

During the last decade women received twice as many degrees in education as men; yet at the same time, more men comparatively than women were being hired as teachers at every level from elementary school to high school.

Fifty-eight percent of all secondary school education degrees and 91% of all elementary education degrees over the past ten years were awarded to women. Not only did more women graduate, but women did better in college; women in college 1/ have a higher grade point average than men; 70% of women achieve a grade point level of B and above, compared to 54% of the men.

Because of the difficulty in determining the number of married women who have left teaching but who plan to return, precise quantification of

1/ Feldman, Saul D., Escape from the Doll's House, a report prepared for the Carnegie Commission on Higher Education, McGraw-Hill Book Co., New York, NY, 1974.

the supply of women teachers at any point presents problems. In recent years, there have been changes in the work patterns with women leaving the workforce for shorter periods of time, which makes it even more difficult to estimate how many teachers will be leaving or returning to employment. However, if an analysis is made of all applicants for teaching positions to your school district during the past three years, you will be able to determine how many of those applicants were returning teachers and how many of those returning teachers were hired. The importance of examining returning teachers separately from other entrants is that their numbers will not be reflected in the number of women who graduate which affects the availability issue. And since the re-entrants are experienced, it is particularly onerous if they are underutilized. At the same time data should be collected on the number of new teachers who applied and who were hired, separately for men and for women.

The state colleges and universities can provide data by sex on graduates of their colleges of education. These data can be separated by those who have a degree in elementary and those with a degree in secondary education.

By cross-examining information on the number of those who graduated, with those who applied, with those who were hired, you should be able to determine the availability of men and women, and will be able to make some estimate as to whether there is evidence of underutilization in the hiring of women teachers.

B. *Example*

In the example school district, employment of teachers by sex in 1957, 1967, 1977 was divided in the following way:

Table 5. -- Employment of Teachers by Sex: 1957, 1967, 1977

School Level	1957		1967		1977	
	Male	Female	Male	Female	Male	Female
	--percent--					
Elementary schools	13	87	17	83	19	81
Intermediate schools	33	67	36	63	39	61
Secondary schools	46	54	53	47	56	44
	--number--					
Elementary schools	26	174	36	178	42	180
Intermediate schools	40	80	48	84	56	88
Secondary schools	64	76	88	78	102	80

In every case, women gained in numbers of teachers employed, but lost in percent of the total school staff employed. These data raise the question of discriminatory practices. Information on the sex of the applicant versus the sex of those hired for the past three years indicates that women are not doing as well as they should. In all cases, some women were hired, but in all cases proportionately fewer women were hired than men. Although overall proportionately more women were hired than men in elementary school, in all cases proportionately fewer women were hired than the data indicated were available, while almost all of the men who applied were hired. A clear case of underutilization exists in the sample school district.

Table 6. -- Applicants Hired by Sex: 1975, 1976, 1977

Applicant category	Number who applied			Number who were hired			Percent applied/ hired 2/		
	1975	1976	1977	1975	1976	1977	1975	1976	1977
ELEMENTARY									
Women teachers 1/	30	36	46	16	16	16	53%	44%	35%
Men teachers	5	6	8	4	5	5	80%	83%	65%
Total	35	42	52	20	21	21			
Total percent women	86%	86%	85%	80%	76%	76%			
SECONDARY									
Women teachers 1/	22	26	38	11	10	10	50%	38%	26%
Men teachers	10	9	10	8	8	7	80%	89%	74%
Total	32	35	48	19	18	17			
Total percent women	69%	74%	74%	58%	56%	59%			

1/ Includes both beginning and re-entering women teachers.

2/ Percent of those who applied who were hired.

Further, in the past three years, the state university has graduated the following teachers:

Table 7. -- Recent College Graduates with Teaching Degrees

Graduates	Number of Men	Percent of Men	Number of Women	Percent Women
Elementary education				
1975	7	8%	84	92%
1976	9	9%	86	91%
1977	10	10%	88	90%
Secondary education				
1975	44	44%	56	56%
1976	44	43%	58	57%
1977	44	42%	60	58%

Clearly, a larger percentage of women than men were graduating from college with teaching degrees. If you compare Table 7 with Table 6 you will see that a larger percentage of the graduates were women than the percent of women being hired by the school district.

Comparing the percentage who graduated with those who applied and those hired indicates a marked advantage to men over women. Table 8 summarizes this information.

Table 8. -- Summary Table of Graduates, Applicants, and Persons Hired

	1975		1976		1977	
	Men	Women	Men	Women	Men	Women
Elementary School						
Number graduates 1/	7	84	9	86	10	88
Percent graduates	8%	92%	9%	91%	10%	90%
Number applying 2/	5	30	6	36	8	46
Percent applying	14%	86%	14%	86%	15%	85%
Number hired 2/	4	16	15	16	5	16
Percent hired	20%	80%	24%	76%	24%	76%
Percent hired of those who applied by sex 2/	80%	53%	83%	44%	63%	37%
Secondary School						
Number graduates 1/	44	56	44	58	44	60
Percent graduates	44%	56%	43%	57%	42%	58%
Number applying 2/	10	22	9	26	10	38
Percent applying	31%	69%	26%	74%	26%	74%
Number hired 2/	8	11	8	10	7	10
Percent hired	42%	58%	44%	56%	41%	59%
Percent hired of those who applied by sex 2/	80%	50%	89%	38%	74%	26%

The burden of proof now shifts to the school to prove that this pattern is not discriminatory. It would now become the responsibility of the school to show:

a. Whether the shift in employment of teachers from women to men is part of a continuing trend to increase the number of male teachers in the district.

b. Whether the schools have intentionally barred new women teachers from entering the system, or older women from returning to the system.

1/ See Table 7.

2/ See Table 6.

C. Action Steps

- Collect data over a 15 or 20 year period on the number of teachers by sex employed at each school level. Use Table 5--Employment of Teachers by Sex, to enter the information. Calculate the percentage of men and women teachers and enter the information.

  Collect data on the number of applicants and the number hired by sex at each school level for the last three years. Enter this information on Table 6--Applicants Hired by Sex.

  Calculate the percentage of those who applied who were hired by sex. Enter the information in Column 3 on Table 6.

  Calculate the percentage of women of the total number who applied and the percentage of women of the total number who were hired. Enter this information on the horizontal line labeled Percent Women.

- Your next step will be to determine the number of graduates by sex from state universities and colleges trained to teach elementary and secondary school. Collect this information for the past three years and enter it on Table 7--Recent College Graduates with Teaching Degrees.

  Calculate the percentage of men and women graduates and enter this information.

- Enter the information gathered for Tables 6 and 7 on Table 8--Summary Table of Graduates, Applicants, and Persons Hired.

  Compare percent who graduates, with percent who applied, with percent who were hired by sex. If the pattern shows that markedly more men were hired than either graduated or applied, prima facie evidence of underutilization of women exists. Use Table 8--Summary Table of Graduates, Applicants, and Persons Hired.

Table 5. -- Teacher Employment

Collect data over a ten year (or 15 year time period) reporting number of teachers by sex. Calculate the percent of women teachers at the elementary, junior high school and high school level separately. If a consistent pattern of rise in the percentage of men teachers emerged then it warrants further investigation.

School Level	Year		Year		Year	
	Male	Female	Male	Female	Male	Female
	--percent--					
Elementary schools						
Intermediate schools						
Secondary schools						
	--number--					
Elementary schools						
Intermediate schools						
Secondary schools						

Table 6. -- Applicants Hired

Compare applicants who are re-entrants separately from new teachers since re-entrants have a proven record with the school. Compare percent of men and percent of women who applied against those who were hired.

Applicant category	Number who applied			Number who were hired			Percent applied/ hired 2/		
	1975	1976	1977	1975	1976	1977	1975	1976	1977
ELEMENTARY									
Women teachers 1/									
Men teachers									
Total percent women									
SECONDARY									
Women teachers 1/									
Men teachers									
Total percent women									

1/ Includes both beginning and re-entering women teachers.

2/ Percent of those who applied who were hired.

Table 7. -- Local Education Graduates

Collect number and percentage of education graduates for the past three years by sex and by educational specialty from local universities that feed teachers to your school district to identify all graduates available to teach at elementary and secondary levels. Calculate the percent of women at each level separately.

Graduates	Number of men	Percent of men	Number of women	Percent of women
ELEMENTARY EDUCATION Year				
Year				
Year				
SECONDARY EDUCATION Year				
Year				
Year				

Table 8. -- Summary Table of Graduates, Applicants, and Persons Hired

Compare percent who graduated,with percent who applied, with percent who were hired by sex. If the pattern shows that markedly more men were hired than either graduated or applied, prima facie evidence of under-utilization of women exists.

Summary Table

	1975		1976		1977	
	Men	Women	Men	Women	Men	Women
ELEMENTARY SCHOOL						
Number graduates 1/						
Percent graduates						
Number applying 2/						
Percent applying						
Number hired 2/						
Percent hired						
Percent hired of those who applied by sex						
SECONDARY SCHOOL						
Number graduates 1/						
Percent graduates						
Number applying 2/						
Percent applying						
Number hired 2/						
Percent hired						
Percent hired of those who applied by sex						

1/ Pick up data from Table 7.

2/ Pick up data from Table 6.

V. Salaries

A. Explanation

Since the principle of equal pay for equal work is firmly established under the law, inequity in salary levels is one of the most important issues in the study of discriminatory employment practices. The variables involved in determining salary levels at the elementary and secondary levels are complex, and differences in the average salary of men and women do not necessarily prove that women's salaries are subject to discriminatory practices.

The Fleischman Commission's study of the public school system in the State of New York noted that the proportion of men in a particular school system was related to that school system's average level of pay. The study pointed out that men college graduates can earn substantially more in positions outside the school system than can women of comparable ability and training. Therefore, men are attracted to school systems with higher salary levels. In 1970-71, men were 40% to 60% of the teachers in those New York school districts that paid starting salaries of $8,000 or more, but men were only 20% to 40% of the teachers in school districts that paid less than $7,000 starting salary. 1/ Thus, relative salary levels of one school district cannot be compared to salary levels of another.

While relative salary levels vary from one school system to another, most school systems operate under a single salary schedule which establishes a base pay and then gives additional compensation on the basis of degrees earned, years of experience, grade level taught, as well as bonuses for other designated services. 2/ Although the single salary schedule appears impartial, it has not prevented salary inequities between the sexes.

Generally, the men teachers in any system obtain higher salary levels than the women teachers.3/ This discrepancy may result from a number of factors

1/ New York State Commission on the Quality, Cost, and Financing of Elementary and Secondary Education. The Fleischman Report on the Quality, Cost,and Financing of Elementary and Secondary Education in New York State, New York: Viking Press, Inc., 1975, Vol. 1.

2/ Howard, Suzanne. Ibid.

3/ The same procedures apply to administrators' salaries.

including the concentration of women in lower grade levels, and the fact that men have earned more degrees than women have. In NEA's 1970-71 survey of public school teachers, 43% of the men and 19% of the women held a master's degree or more. 1/ This could contribute to higher salaries among men teachers. 2/ However, in comparing salary levels of men and women teachers with the same degrees, there is still a difference between the median income of women and men teachers. Based upon figures from NEA's 1972-73 survey of public school instructional staff, the average annual salary for full-time men public school teachers was $10,654 while the average salary for full-time women public school teachers was $9,787. 3/ The higher average salary is, in part, a reflection of the greater proportion of men teaching in secondary schools where salaries are higher than in elementary schools.

The difference between men's and women's salaries can be offset by women having more years of experience than men. Some school districts, however, only credit women with continuous teaching experience, and since women are more likely to break their tenure because of childbearing and rearing, they may be credited with less time in the system even though they may have taught for longer periods of time. Some school districts provide credit for years of teaching in other school systems. This will usually benefit women more than men, since women are more likely to change from one system to another due to their husband's changing his place of employment.

Salary differentials between men and women may also be due to the extension of credit for other work experience which apparently benefits men

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1/ National Education Association, Status of the American Public School Teachers 1970-71, Research Report 1972-73, Washington, D.C.: National Education Association, Research Division, 1972.

2/ Ibid.

3/ National Education Association, Salaries Paid and Salary-Related Practices in Higher Education, 1971-72, Research Report 1973-R5, Washington, D.C.: National Education Association, Research Division, 1972.

more than women, such as the granting of credit for military service. 1/ In some cases, employees have been granted up to five years credit for a combination of military service and prior teaching. Since most military service is not job-related, it would appear that years devoted by women to rearing children would benefit a school system as much if not more than years devoted to non-teaching military service, 2/ and could be considered in the best interest of society. Another reason for the higher annual income reported by men teachers is that a higher proportion of men have extra earnings in addition to their classroom duties, both during the summer and during the school year. The factor that decides which teachers get the opportunity to teach in the summer session may be a key factor affecting the yearly wage of men and women teachers.

The schools employ a system of salary supplements to compensate teachers for the time that they spend working on extracurricular activities. Larger salary supplements, Suzanne Howard points out, go to men teachers for coaching boys' intramural sports. 3/ But as studies of local systems show, many school boards give minimal or no supplements at all to women who coach girls' teams or who direct other activities such as glee club. 4/ A 1971-72 Connecticut Education Association study, 5/ a 1973 Texas Study, 6/ and a 1973 Michigan study 7/ all found that the extra-duty pay for men engaged in coaching male sports was much higher than pay for coaching available to women.

1/ Fairfax County Commission on Women, Quality and Equity, A Study of Sex Bias in the Fairfax County Public Schools, Second Report, Fairfax, VA: April 1974.

2/ Ibid.

3/ Howard, Suzanne, Ibid.

4/ Ibid.

5/ Connecticut Education Association, "Extra Pay," 1972 (as cited in Howard).

6/ Waco Independent School District, "Survey of Sex Discrimination" (mimeographed), 1971.

7/ Kalamazoo, Michigan, "Report of the Personnel Task Force," 1973.

Since these complex factors are involved in the determination of teachers' salaries, the existence of a single salary schedule may not prevent inequities of salaries between the sexes; and some of these differences, or all of them may be discriminatory either in intent or, if neutral in intent, may be discriminatory in fact because the action impacts one group adversely as opposed to others. But in order to prove this, the data must be examined to pinpoint those factors which are causing the differences. Some of the causes of the salary difference may not be legally discriminatory, that is, could not be successfully attacked through a law suit; but they may be inequitable and could be challenged through collective bargaining or other mechanisms outside the courts.

B. *Example*

The median salary of men and women cannot simply be reported and conclusions drawn on the basis of the difference. Data must be collected and analyzed on the basis of each variable that affects salary. For example, the average salary of women in our hypothetical school district is $8,857 and the average salary of men is $9,718, a difference of $861. On the face of it, it would appear that the school's salary system is discriminatory. However, in order to develop a supportable case, you would need much more information, and must understand how to analyze it.

All teachers in the school district have the base salary of $8,000. If you start with a base salary for any teacher, in this case $8,000, each characteristic that adds money (according to the formula in the contract developed by the school district and the association or the union) to the base salary must be analyzed separately. In the hypothetical case used below the school system has 250 men teachers, and 510 women teachers.

1. *Non-Discriminatory Factors*

   a. *Grade Level Differentials*

Salaries progress with grade levels. The chart describes the system used in our example.

Table 9. -- Average Additional Salary Earned by Grade Level

Grade Level	Allowance at each Grade Level	Number of Men Teachers Employed at each Grade Level	Number of Women Teachers Employed at each Grade Level
K-3	0	25	200
4-6	250	50	175
7-9	500	75	75
10-12	750	100	60
Total		250	510

To determine the additional salary men teachers receive because of grade level they teach, the additional salary at each grade level is multiplied by the number of men teachers at that grade level:

Table 9a. -- Men's Additional Salary by Grade Level

Number of Men x Allowance = Additional Salary					
	Men Teachers		Allowance		Additional Salary
Grades K - 3	25	x	$ 0	=	$ -0-
Grades 4 - 6	50	x	250	=	12,500
Grades 7 - 9	75	x	500	=	37,500
Grades 10 - 12	100	x	750	=	75,000
Total					$125,000
	$125,000 ÷ 250 = $500				

The total amount added to men's salary due to grade level is $125,000. This is divided by the number of men teachers in the system, in this case, 250: $125,000 ÷ 250 = $500.

To compare the relative effect on women's salary, the same method must be carried out for the women:

Table 9b. -- Women's Additional Salary by Grade Level

Number of Women x Allowance = Additional Salary					
	Women Teachers		Allowance		Additional Salary
Grades K - 3	200	x	$ 0	=	$ -0-
Grades 4 - 6	175	x	250	=	43,750
Grades 7 - 9	75	x	500	=	37,500
Grades 10 - 12	60	x	750	=	45,000
Total					$126,250
	$126,250 ÷ 510 = $248				

The $126,250 additional salaries for women, although more than the $125,000 additional salaries for men, is less on the average for women since there are 510 women: $126,250 ÷ 510 = $248.

The average supplement to teachers' salaries that are attributable to different grade levels is $500 for men and $248 for women--a difference of $252. Of the $573 total difference between men's and women's salaries ($9,718 for men; $8,857 for women), $252 of that difference is attributable to grade level factors. If one accepts the fact that teaching a higher grade level warrants a higher salary, then this difference is not discriminatory.

b. *Degrees*

A similar analysis is required in order to determine the difference between men and women on the basis of degrees held.

Table 10. -- Average Additional Salary by Degrees Held

Degree Held	Allowance at Each Degree Level	Number of Men Teachers at Each Degree Level	Number of Women Teachers at Each Degree Level
Less than BA	$ 0	25	- 0 -
BA	100	100	300
MA	350	100	200
Ph.D.	700	25	10
Total		250	510

Table 10a. -- Men's Additional Salary by Degrees Held

Degrees Held	Men Teachers		Allowance		Additional Salary
Less than a BA	25	x	$ 0	=	$ - 0 -
BA	100	x	100	=	10,000
MA	100	x	350	=	35,000
Ph.D.	25	x	700	=	17,500
Total					$62,500

$62,500 ÷ 250 = $250

Thus, men teachers' salaries are supplemented on an average of $250 based on their degrees earned. The analysis is then repeated for women in the same way:

Table 10b. -- Women's Additional Salary by Degrees Held

Degrees Held	Women Teachers		Allowance		Additional Salary
Less than a BA	0	x	$ 0	=	$ -0-
BA	300	x	100		30,000
MA	200	x	350		70,000
Ph.D.	10	x	700		7,000
Total					$107,000
	$107,000 ÷ 510 = $210				

The difference between men and women's salaries attributable to bonuses paid for degree held is $40 ($250 - $210 = $40). As with higher salaries paid for teaching higher grade levels, paying bonuses for degrees is not considered to be a discriminatory practice.

c. *Teaching Experience*

In this school district, a teacher is credited only with continuous teaching experience in the school district, unless the discontinuity was caused by services in the Armed Forces.

Table 11. -- Average Additional Salary Earned by Years of Continuous Experience

Years of Continuous Experience	Allowance for Years of Experience	Number of Men Teachers at Each Level of Continuous Experience	Number of Women Teachers at Each Level of Continuous Experience
0 - 1	$ 0	25	50
2 - 3	100	25	120
4 - 5	300	100	250
6 - 10	500	70	40
11 - 20	750	20	30
21 or more	1,000	10	20
Total		250	510

Allowance times the number of men teachers at each number of years of continuous experience = $92,500; and allowance

of women teachers times the number of women at each number of years of continuous experience = $149,500.

Thus, for men, the additional amount is:

$$\$92,500 \div 250 = \$370;$$

and for women,

$$\$149,500 \div 510 = \$293.$$

d. *Summary of Salary Differentials Due to Non-Discriminatory Factors*

Summarizing these first three characteristics, the average salary for women for nine- to ten-month contracts that can be attributed to known factors that are standard and not discriminatory is $8,751 ($8,000 base salary; plus $248 for each grade level; plus $210 for degrees held; plus $293 for years of continuous teaching). Similarly, the average salary for men is $9,120 ($8,000 base salary; plus $500 for grade level; plus $250 for degrees held; plus $370 for years of continuous teaching). Although men average $369 more a year than women, for these three reasons this cannot be attributed to discriminatory practices (Table 12).

Table 12. -- Summary: Average Additional Salary Earned from Non-Discriminatory Factors

Factors	Men (Average additional salary)	Women (Average additional salary)
1. Grade Level 1/	$500	$248
2. Degrees held 2/	250	210
3. Years continuous experience 3/	370	293
4. (Any other non-discriminatory factor)		
Total additional salary that was not due to discriminatory factors	$1,120	$ 751
(plus) Base Salary	8,000	8,000
Total Non-Discriminatory Salary	$9,120	$8,751

1/ From Tables 9a and 9b.
2/ From Tables 10a and 10b.
3/ From Table 11.

2. *Possible Discriminatory Factors*

Other factors that affect salaries in this school district may be either discriminatory in intent or in effect: credit for non-teaching experience; teaching in summer school; special bonuses; prior teaching experience, and the relative impact of the rule on continuous teaching.

a. *Non-Teaching Experience*

The school district gives additional money for experience gained outside a school system--such as military service and vocational experience. Teachers most likely to have the additional experience are men, since men have military experience, or teach trade and industrial education subjects which require non-teaching experience in order to become certified.

Table 13. -- Average Additional Salary Earned by Non-Teaching Experience

Additional Experience	Allowance	Number of Men Teachers	Number of Women Teachers
1-3 years	$200	50	20
4-5 years	300	20	10
6 and over years	400	40	10

Additional Salary Men Teachers	Additional Salary Women Teachers
$200 x 50 = $10,000	$200 x 20 = $4,000
300 x 20 = 6,000	300 x 10 = 3,000
400 x 40 = 16,000	400 x 10 = 4,000
Total $32,000	$11,000
$32,000 ÷ 250 = $128	$11,000 ÷ 510 = $22

Men received an additional $128, women only $22.

b. *Summer School*

The method of selecting teachers to teach in the summer program is likely to be based on the recommendation of the male principal and selection by a male administrative staff. These selections can prove to be discriminatory; it would require an examination of the sex of the applicants, and the sex of those placed to determine whether or not it was discriminatory. It would also require investigating whether women were discouraged from applying.

Table 14. -- Average Additional Salary Earned by Summer Program

Summer Teacher	Allowance	Number of Men Teachers	Number of Women Teachers
K-6	$ 700	5	15
7-9	900	25	10
10-12	1,100	40	5

Additional Salary Men Teachers	Additional Salary Women Teachers
$ 700 x 5 = $ 3,500	$ 700 x 15 = $10,500
900 x 25 = 22,500	900 x 5 = 4,500
1,100 x 40 = 44,000	1,100 x 10 = 11,000
Total $70,000	$26,000
$70,000 ÷ 250 = $280	$26,000 ÷ 510 = $51

The additional salary men teachers receive is an average of $280; for women teachers it is $51.

c. *Outstanding Performance*

Bonuses for performing outstanding work can also be discriminatory since the selection of who is to be credited with outstanding performance is made by men principals and there are indications that sex-based differences do exist.

Table 15. -- Average Additional Salary Earned by Outstanding Performance

Bonus for Outstanding Performance			
	Allowance	Number of Men Teachers	Number of Women Teachers
Bonus 1	$ 50	50	50
2	100	40	25
3	150	30	10
4	200	20	0
5	250	10	0

Additional Salary Men Teachers		Additional Salary Women Teachers	
$ 50 x 50 =	$2,500	$ 50 x 50 =	$2,500
100 x 40 =	4,000	100 x 25 =	2,500
150 x 30 =	4,500	150 x 10 =	1,500
200 x 20 =	4,000	200 x 0 =	0
250 x 10 =	2,500	250 x 0 =	0
Total	$17,500	Total	$6,500
$17,500 ÷ 250 = $70		$6,500 ÷ 510 = $13	

Men received an average of $70; and women an average of $13.

d. *Additional Duties*

Bonuses for performing additional duties clearly may discriminate against women. Coaches of boys teams receive more money than coaches of girls teams; and extracurricula duties likely to be performed by men receive more, and there are more opportunities for them than extra duties likely to be performed by women.

Table 16. Average Additional Salary Earned by Additional Duties

Additional Duties	Allowances for Men	Allowances for Women	Number of Men	Number of Women
Coaching Teams				
Elementary	$200	$100	30	20
Junior High	300	100	15	10
Senior High	750	200	20	10
Directing				
Plays		$200	2	8
Glee Clubs		200	- 0 -	7
Sponsoring Special Club		200	20	10

Additional Salary Men Teachers	Additional Salary Women Teachers
$200 x 30 = $ 6,000	$100 x 20 = $2,000
300 x 15 = 4,500	100 x 10 = 1,000
750 x 20 = 15,000	200 x 10 = 2,000
200 x 22 = 4,400	200 x 25 = 5,000
Total $29,900	$10,000
$29,900 ÷ 250 = $120	$10,000 ÷ 510 = $20

Men received $120 and women $20 additional salaries.

e. Prior Teaching Experience (not credited)

This school district provides no additional salary for prior teaching experience that is not continuous whether in the same school district or in another school system. Because of childbearing and childraising duties, more women than men are likely to leave a school system. Also, more women are likely to leave one school system and transfer to another, because their husband's job may take them to a new location.

Table 17. -- Average Additional Salary Lost by Prior Teaching Experience in Another School District Not Credited

Previous Teaching Experience in Another School District		Allowance for Previous Experience	Number of Men Teachers	Number of Women Teachers
K-6	0 - 3 years	$ -0-	5	50
	4 - 5 years	100	5	75
	6 - 10 years	300	5	25
	11 and over	400	0	20
7-12	0 - 3 years	0	5	20
	4 - 5 years	200	10	50
	6 - 10 years	400	10	20

Only 40 men had previous experience teaching in another school district; the total additional salary $8,000 divided by the 250 men teachers would have averaged an additional salary of $32.

$$\$8,000 \div 250 = \$32$$

For women the non-credited experience in another school district would have been an additional $80.

$$\$41,000 \div 510 = \$80$$

Women should also have been credited for their entire teaching experience in the school district in which they are teaching. Were this discriminatory ruling not in effect, women would be further credited with the following work experience:

Table 18. -- Average Additional Salary Lost by Prior Non-Continuous Teaching Experience in School District Not Being Credited

Teaching Experience Prior to Teaching Experience Credited		Allowance	Women Teachers	Additional Salary
K-6	0 - 3 years	$ -0-	50	$ -0-
	4 - 5 years	100	75	7,500
	6 - 10 years	300	25	7,500
	11 and over	400	20	8,000
7-12	0 - 3 years	0	30	0
	4 - 5 years	200	50	10,000
	6 - 10 years	400	30	12,000
				$45,000

$$\$45,000 \div 510 = \$88$$

Therefore, if all teaching experiences of teachers in the school district were credited, men would be earning an additional $32, and women would be earning an additional $168 ($80 teaching experience in other school districts; $88 teaching experience in the same school district).

Thus the salary differential due to possible discriminatory decisions was:

Table 19. -- Summary: Salary Differential Due to Possible Discriminatory Factors

	Men	Women	Net (Men Minus Women)
Non-Teaching Experience	$128	$22	$106
Summer School	280	51	229
Bonuses for Outstanding Performance	70	13	57
Bonuses for Additional Duties	120	20	100
Total Additional Salary	$598	$106	$492

In addition salaries that should have been paid to women for additional teaching experiences:

Table 19a. -- Summary: Additional Salaries Lost to Women

	Men	Women	Net (Women Minus Men)
Previous Teaching Experience in Other School Districts	$32	$80	$48
Previous Teaching Experience in Same District (not credited because it was not continuous)		88	88
Total Advantage Women Over Men			$136

Thus a total of $628 of salaries (both paid and unpaid--$492 plus $136) was subject to question as discriminatory employment practice and subject to change based on collective bargaining to eliminate the differences, or subject to legal action under Equal Pay, Title VII, and probably Title IX (see discussion under legal remedies).

C. Action Steps to Collect and Analyze Salary Related Information

- Your first step will be to obtain the salary schedule for your school district. You will need a detailed break out of all factors that add to the additional base starting salary of elementary and secondary teachers. The factors in the example will serve as a guide for you. Your school district may have more or different factors which it considers in determining salary. The salary schedule for each factor should be public information.

- You will also need to know the total number of men and women teachers employed full-time in your school district. You want to know separately for men and women teachers: at what grade level they are teaching, what degree(s) they hold, how many continuous years they have been teaching. If the data are obtained from the school you will want to know how many men and how many women qualify for each additional stipend. You will not need the information on individual teachers. These factors reflect salary differences not attributed to discriminatory practices.

- Analyze each factor separately using the examples as a guide. Once you have determined the average additional salary for men and women teachers for each factor, enter those figures on Table 12--Summary: Average Additional Salary Earned from Non-Discriminatory Factors.

- Your next step will be to figure the average additional salary earned by men and women teachers for those factors that discriminate against women. Use the factors in the example as a guide to the kinds of additional factors which might be discriminatory.

  Figure each factor separately using Tables 13-16. Enter on Table 19--Summary: Salary Differential Due to Possible Discriminatory Factors--the average additional salary earned by men and women teachers for each factor that discriminates against women.

- Remember to figure the average unpaid salary from discriminatory factors as described in Section e. in the Example. Enter on Tables 17 and 18.

- If the factors in your school district are different, use the additional work tables at the end of the chapter. Enter on these additional blank tables those factors appropriate to your school district.

- On Tables 19 and 19a, figure the total difference of salaries paid to men and women based on discriminatory factors.

Table 9. -- Average Additional Salary Earned by Grade Level

Allowance	Number of Men Teachers	Number of Women Teachers

Additional Salary Men Teachers (Allowance x Number of Men Teachers)	Additional Salary Women Teachers (Allowance x Number of Women Teachers)
Total _____	_____
Average additional salary for men teachers _____	Average additional salary for women teachers _____
(Total ÷ by number of men teachers = average additional allowance for men teachers.)	(Total ÷ by number of women teachers = average additional allowance for women teachers.)

Table 10. -- Average Additional Salary Earned by Degrees Held

Allowance	Number of Men Teachers	Number of Women Teachers

Additional Salary Men Teachers (Allowance x Number of Men Teachers)	Additional Salary Women Teachers (Allowance x Number of Women Teachers)
Total _____	_____
Average additional salary for men teachers _____	Average additional salary for women teachers _____
(Total ÷ by number of men teachers = average additional allowance for men teachers.)	(Total ÷ by number of women teachers = average additional allowance for women teachers.)

Table 11. -- Average Additional Salary Earned by Years of Continuous Experience

Allowance	Number of Men Teachers	Number of Women Teachers

Additional Salary Men Teachers (Allowance x Number of Men Teachers)	Additional Salary Women Teachers (Allowance x Number of Women Teachers)
Total _____	_____
Average additional salary for men teachers _____	Average additional salary for women teachers _____
(Total ÷ by number of men teachers = average additional allowance for men teachers.)	(Total ÷ by number of women teachers = average additional allowance for women teachers.)

Table 12. -- Summary: Average Additional Salary Earned from Discriminatory Factors

Factors	Men	Women	Net (Men Minus Women)
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
B. Total additional salary due to discriminatory factors	____	____	____

Table 13. -- Average Additional Salary Earned by Non-Teaching Experience

Allowance	Number of Men Teachers	Number of Women Teachers

Additional Salary Men Teachers (Allowance x Number of Men Teachers)	Additional Salary Women Teachers (Allowance x Number of Women Teachers)
Total _____	_____
Average additional salary for men teachers _____	Average additional salary for women teachers _____
(Total ÷ by number of men teachers = average additional allowance for men teachers.)	(Total ÷ by number of women teachers = average additional allowance for women teachers.)

Table 14. -- Average Additional Salary Earned by Summer Program

Allowance	Number of Men Teachers	Number of Women Teachers

Additional Salary Men Teachers (Allowance x Number of Men Teachers)	Additional Salary Women Teachers (Allowance x Number of Women Teachers)
Total _____	_____
Average additional salary for men teachers _____	Average additional salary for women teachers _____
(Total ÷ by number of men teachers = average additional allowance for men teachers.)	(Total ÷ by number of women teachers = average additional allowance for women teachers.)

Table 15. -- Average Additional Salary Earned by Outstanding Performance

Allowance	Number of Men Teachers	Number of Women Teachers

Additional Salary Men Teachers (Allowance x Number of Men Teachers)	Additional Salary Women Teachers (Allowance x Number of Women Teachers)
Total _____	_____
Average additional salary for men teachers _____	Average additional salary for women teachers _____
(Total ÷ by number of men teachers = average additional allowance for men teachers.)	(Total ÷ by number of women teachers = average additional allowance for women teachers.)

Table 16. -- Average Additional Salary Earned by Additional Duties

Allowance	Number of Men Teachers	Number of Women Teachers

Additional Salary Men Teachers (Allowance x Number of Men Teachers)	Additional Salary Women Teachers (Allowance x Number of Women Teachers)
Total _____	_____
Average additional salary for men teachers _____	Average additional salary for women teachers _____
(Total ÷ by number of men teachers = average additional allowance for men teachers.)	(Total ÷ by number of women teachers = average additional allowance for women teachers.)

Table 17. -- Average Additional Salary Lost by Prior Teaching Experience in Another School District Not Credited

Allowance	Number of Men Teachers	Number of Women Teachers

Additional Salary Men Teachers (Allowance x Number of Men Teachers)	Additional Salary Women Teachers (Allowance x Number of Women Teachers)
Total _____	_____
Average additional salary for men teachers _____	Average additional salary for women teachers _____
(Total ÷ by number of men teachers = average additional allowance for men teachers.)	(Total ÷ by number of women teachers = average additional allowance for women teachers.)

Table 18. -- Average Additional Salary Lost by Prior Non-Continuous Teaching Experience Not Being Credited

Allowance	Number of Men Teachers	Number of Women Teachers

Additional Salary Men Teachers (Allowance x Number of Men Teachers)	Additional Salary Women Teachers (Allowance x Number of Women Teachers)
Total _____	_____
Average additional salary for men teachers _____	Average additional salary for women teachers _____
(Total ÷ by number of men teachers = average additional allowance for men teachers.)	(Total ÷ by number of women teachers = average additional allowance for women teachers.)

Table 19. -- Summary: Average Additional Salary Earned from Discriminatory Factors

Factors	Men	Women	Net (Men Minus Women)
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
B. Total additional salary due to discriminatory factors	_____	_____	_____

Table 19a. -- Summary: Average Unpaid Salary from Discriminatory Factors and Total Discriminatory Salary

Factors	Men (Average unpaid salary)	Women (Average unpaid salary)	NET* (Women Minus Men)
1.			
2.			
3.			
C. Total unpaid salary due to discriminatory factors	_____	_____	_____
D. Total discriminatory salary (Add net of A & B)			_____

*Note carefully the process of subtraction as it is the opposite of Table 19.

VI. Fringe Benefits

An examination of discriminatory practices must not be confined to salaries and hiring and promotion policies. Unfair practices exist in the area of fringe benefits--from maternity leave to retirement benefits--which also serve to continue discriminatory practices against women. Some of these practices have been declared discriminatory by court decisions, others by federal regulations, but all serve to provide less protection to women teachers and other employees than they provide to men.

Fringe benefits cover such items as health, disability and life insurance; retirement benefits; profit sharing and bonus plans; leave benefits such as sick leave, and short and long term personal leave. Under federal laws (Titles VII and IX), it is illegal for an employer to discriminate between men and women with regard to fringe benefits.

Yet, women employed by educational institutions are frequently excluded from fringe benefits, or receive fewer benefits than men, or in other ways are treated inequitably. Because of their biological role (childbearing) and the traditional social role (childrearing), women are viewed as supplemental or temporary workers, and because of that fact are often treated unfairly.

As part of your analysis, you should determine what fringe benefits are available for employees in your school district and determine whether contributions (the amount paid by employers) and benefits (that received by employees) are distributed in a discriminatory manner. Obtaining copies describing each fringe benefit policy provided by your school system and comparing their provisions with the description of discriminatory practices in this chapter will permit you to determine whether the fringe benefits provided in your school district are being distributed (or whether the costs are allocated) in a discriminatory manner.

The most controversial issue in reference to fringe benefits is whether pregnancy must be treated in the same manner as any other temporary disability for the purpose of fringe benefits. This determines whether health and dis-

ability insurance policies must cover pregnancy, and whether extended leaves of absence (with or without pay) must be made available to women during childbirth, if such leave is available for other temporary disabilities.

A. Maternity Benefits

Employment practices associated with maternity are undergoing dramatic changes as a result of court decisions, federal regulations, and pressure from women's groups. Maternity benefit practices relating to leave, reinstatement and seniority rights, and disability payments must be examined separately to determine if the results are discriminatory.

1. Mandatory Leave

Most school districts had, in the past, required that pregnant women take leave at the end of their fourth or fifth month of pregnancy, and to remain on leave from three months to a full year after giving birth. The rationalizations given for this practice were inconsistent. The school district usually argued that the policies were necessary for administrative convenience. Yet, there is no guarantee that the fourth or fifth month of pregnancy will coincide with the beginning or end of the school term. It appears that the real motivating factors were irrational feelings about pregnancy--e.g., that children should not be permitted to see pregnant women.

One of the most important victories for teachers came in 1973 when in the case of Cleveland Board of Education v. La Fleur, 1/ the Supreme Court struck down such maternity leave policies. "This was my fight to get teachers treated as professionals. Someone must be able to stand up and fight; otherwise, teachers are less than they ought to be," said Jo Carol La Fleur, a sociology teacher at Lakewood High School, in Lakewood, Ohio, one of three teachers who initiated the action. Under the ruling, school districts must permit women to work as long as they are physically capable and to choose the date of commencing leave, as long as sufficient advance notice is given.

1/ 414 U.S. 632 (1974).

2. Reinstatement and Seniority Rights

Women frequently loose their right to reinstatement and seniority after maternity leave. Some institutions give teachers no re-employment rights at all; they are re-employed only if a suitable vacancy occurs. In some school districts, teachers have to forego their tenure and seniority to be re-employed. In other districts, they are not able to return to the same school, the same program, or they may have to become substitute teachers until an opening develops. Since none of these negative policies are imposed on men when they take military leave, decisions of this kind clearly work to the disadvantage of women. With the tight employment situation in many school districts, re-employment rights are crucial factors for protecting a woman's right to work.

Title IX protects a women's rehiring rights, as well as her seniority. Title IX regulations specified that after a pregnancy leave "for a reasonable period of time" an employee must be "reinstated to the status which she held when the leave began or to a comparable position, without decrease in rate of compensation or loss of promotional opportunities, or any other right or privilege of employment." 1/ Yet many school districts ignore this requirement.

While most maternity-related law suits have involved illegal dismissals, forced unpaid leave, and denial of sick leave benefits, all of which are supposed to be protected, a 1976 case set a precedent by protecting a woman's right to have her contract renewed. A recent Supreme Court decision protects a woman's right to her seniority on return to work. 2/

1/ Sec. 86.57(d).

2/ Nashville Gas Co. v. Satty, 16 FEP 136 (S. Ct. 1977).

3. Pregnancy as a Temporary Disability

Pregnancy has always been considered a unique and special condition defined as a temporary disability.

Women have rarely been permitted to claim disability benefits because of time lost due to pregnancy, or to take sick leave or extended leave, with reinstatement rights and retention of benefits, during or immediately following pregnancy. Many health insurance policies used by school districts still do not cover the childbearing expenses of employees, although they cover the childbearing costs of employee's wives. As a result, female employees suffer not only lost income and employment, but also must pay the full medical costs of their pregnancy and childbirth.

Regulations established under Title IX, EEOC and the Office of Federal Contract Compliance have all declared that since the exclusion of pregnancy from fringe benefit programs affects only women, it is therefore discriminatory.

The United States Supreme Court, in General Electric v. Gilbert, 1/ (December 1976) ruled that denying women temporary disability benefits for pregnancy is not sex discrimination under Title VII. However, Title VII is only one of the various legal tools available, and certain other laws can still be used to force districts to treat pregnancy as a temporary disability in all aspects of fringe benefits. There are presently about 15 states (courts or FEPCs 2/) which have ignored the Supreme Court's logic in Gilbert, and have continued to rule that their own employment rights statutes do require employers to treat pregnancy in the same manner as they treat all other temporary disabilities. (Since the Gilbert decision only interpreted Title VII, state courts and FEPCs are not bound by that case when interpreting their own employment rights statutes.) So one place to look for relief on pregnancy-fringe benefit issues is to consult your own state or local employment rights laws and agencies.

1/ 429. U.S. 125 (1976).

2/ Fair Employment Practice Commissions.

Secondly, Title IX still requires that pregnancy be treated as a temporary disability. In fact, a court recently upheld those sections of the Title IX regulations and found that women have a private right to sue under Title IX when their school district's fringe benefit policies do not treat pregnancy in the manner required by Title IX. 1/ Also, NEA and the AFT have been able to negotiate for the fair treatment of fringe benefit policies for pregnancy, even after Gilbert was handed down. Finally, a bill is now before Congress which would amend Title VII in a way that would override Gilbert and make it clear that Title VII does require that pregnancy be treated in the same manner as any other temporary disability. So while the Gilbert decision was a significant setback in the fight for equal treatment of women in fringe benefit policies, other vehicles for achieving the same objective are still available. One way or another you should be able to require your school district to treat pregnancy as a temporary disability. These various vehicles should be used because the existing practices place unnecessary financial burdens on pregnant teachers and adversely affect their career development.

When reviewing the practices of your district you should look for (and when using legal or negotiation tools, you should fight for) the following:

- That women should be allowed to use sick leave, vacation leave, and leave without pay when on leave because of pregnancy, in the same manner that such leave opportunities would be available to persons with any other temporary disability;
- That health insurance covers teachers throughout their pregnancies, including the cost of pregnancy, even if they must go on leave without pay for part of that period;
- That disability insurance be made available to pregnant teachers;
- That women who have taken pregnancy leave are offered full reinstatement rights when they are ready to return to work.

1/ See the discussion on Title IX in the Section on Legal Remedies in Chapter VII.

4. Childrearing

Childrearing is a responsibility that can be borne by either men or women. However, because these responsibilities are usually borne by women, the absence of benefits to protect them can be considered a problem that mainly affects women.

Leave for purposes of childrearing has been the concern of professional associations and teachers' unions for several years. The National Education Association and the American Federation of Teachers have passed several resolutions urging schools to grant leave for childrearing purposes and have also urged that such leave be included when fringe benefit packages are negotiated. While a few postsecondary institutions have begun to grant leaves for childrearing, there appears no movement by elementary and secondary school districts to consider similar arrangements; however, women might want to consider this as an area to be negotiated.

B. Health Insurance

Health insurance often covers the families of men employees but not the families of women employees. Federal laws specifically forbid employers to differentiate in regard to benefits available to employees, their spouses and families based on an employee's sex, marital status, or whether the employee is "head of household" or the "principal wage earner."

C. Life Insurance

Life insurance that is available as a fringe benefit from the school should charge women in the same way as that charged to men, and their beneficiaries should be equally compensated. Women should receive the same services, opportunities, and protection already established for men, and practices that subject women to differential treatment solely on the basis of sex should be eliminated.

D. Retirement Benefits

Issues connected with retirement benefits for women in educational institutions are currently the source of considerable argument and confusion.

The primary issue is whether equality rests in equal contribution; or in equal benefits, i.e., whether women can be required either to make larger contributions or to receive lower retirement benefits than do men; or whether equality is required in both.

The chief argument used to justify paying women less benefits is that on the average women live longer than men and therefore it costs more to provide women with retirement benefits that are equal to those of men, since benefits must be paid out over a longer period of time. However, if the logic of the insurance companies is carried to its fullest, then black and Indian males should be given lower rates or higher benefits than white males, since blacks and Indians have a shorter life expectancy. In other words, there is no justifiable reason for choosing to look at the different life expectancies between men and women while ignoring all the other life expectancy variables. Instead, all persons should be treated as a single class, with the cost of contribution and the risk and benefits shared by the entire pool of beneficiaries.

There are three laws, two federal agencies and three sets of guidelines that relate to equity in retirement benefits. Under the Equal Pay Act and contract compliance regulations of the DOL, employers can either make equal contributions for men and women or provide them with equal benefits. They are not required to do both. 1/

The Title VII guidelines issued by the Equal Employment Opportunity Commission (EEOC) hold that it is an "unlawful employment practice" to differentiate in payments or benefits on the basis of sex. 2/

In the Title IX regulations issued in July 1975, DHEW accepted the Department of Labor guidelines, allowing employers to choose between equal contributions or equal benefits, although it "recognizes the need to move toward some provision for equality in periodic benefits." 3/

1/ Equal Pay for Equal Work Interpretive Bulletin, Part 800.116(d).
2/ 29 C.F.R. 1604.9(f).
3/ 86.56(b)(2).

You should review the approach used by your school district and should fight for the policy required under the EEOC guidelines--that all persons be treated as a single class, where they all pay the same and all draw the same monthly benefits when they retire.

Data Analysis

Copies of the contract(s) that your school district has with its insurer(s) are public information. In reviewing the contract(s) there will be those issues which will form the basis of a legal suit because they are not in agreement with EEOC and other federal guidelines, or your state or local FEPC's decisions, and there will be those issues that you will want to negotiate whether or not they are subject to legal actions.

The specific issues that you should consider are:

1. Health benefits--does the wife of an employee receive better coverage than a woman employee, or the husband of a woman employee (illegal).

2. Maternity benefits --

   a. Is a woman required to stop work at a fixed time (illegal), or is she prohibited from returning before a fixed time based on an arbitrary decision about when she is fit to return (illegal).

   b. Does she receive pay for sick leave as well as for leave time during her absence (not illegal).

   c. If the school's leave and other fringe benefit policies do not cover maternity leave, but do cover other temporary disability--subject to negotiation--illegal under Title IX and some state laws; not illegal under Title VII.

   d. Is she denied reinstatement rights? (Illegal under Title IX.) For how long, and into what job? Is she denied her seniority? (Illegal*)

* December 1977 Supreme Court decision makes loss of seniority illegal.

e. Does the school permit childrearing leave? Do teachers retain their rights of rehire and seniority? For how long?

f. Are retirement benefits treated as a single class where all teachers pay the same and all draw the same monthly benefits? (Use Title VII guidelines.)

VII. Remedies

A. Legal Remedies

Over the past fifteen years, the Federal, state and local governments have adopted a number of laws and regulations to combat employment discrimination. Many of these laws cover women employed in educational institutions. Unfortunately, each of these laws has significant weakness. They all impose time-consuming and frequently cumbersome systems for evaluating a claim; none of them provides an all-purpose tool for women seeking relief from discriminatory employment practices by elementary and secondary school systems. Each of these laws or regulations is discussed in this section. In determining which legal remedy to pursue, you will have to evaluate the relative strengths and weakness of each and decide which provides the best tool in light of your specific situation. Given that none of them is truly effective, if the decision is made to seek a legal remedy, in many situations it is advisable to use several (or all) of them and hope that at least one will produce the results you are seeking.

In almost all situations, it might be wise to view the legal remedies primarily as a tool which might prove useful during negotiations with your educational institution, following the old legal adage that "one should always negotiate from behind a law suit." Filing a legal complaint or law suit prior to negotiation can force the system to take your problems seriously and thereby strengthen your bargaining position. However, if you count solely on the legal process to solve your problems, more often than not you will be sorely disappointed; or at the very least, by the time the legal process has run its course, you may have forgotten what the case was all about even if it finally rules in your favor.

The major legal tools that can be utilized by educational personnel to attack the problem of sex discriminatory employment practices are:

- Title VII of the 1964 Civil Rights Act (The Equal Employment Opportunity Act);
- State and local Fair Employment Practices laws;
- Title IX of the Educational Amendments of 1972;

- Executive Order 11246 as amended by E.O. 11375 (The Federal Contract Compliance Program);
- The Equal Pay Act;
- The Fourteenth Amendment to the Constitution.

While many of these laws have been in effect for sometime, it is only through recent amendments that they have become useful to women employed in public school systems. Sex discrimination guidelines under the Executive Orders were issued in 1970. Only after 1972 did Title VII cover state and local public employees. In that same year Title IX, which was designed to eliminate discrimination in education was passed, and the Equal Pay Act was amended to cover executive, administrative and professional employment.

1. Title VII of the Civil Rights Act of 1964 (as amended by the Equal Employment Opportunity Act of 1972) 42 U.S.C. 2000 et seq.

Title VII is the employment section of the historic 1964 Civil Rights Act, which also outlawed discrimination in public accommodations and education. Title VII establishes a comprehensive scheme to prohibit and to remedy employment discrimination. It prohibits employers of 15 or more employees (including public employers such as school districts, labor unions, and employment agencies) from discriminating in any aspect of employment on the basis of race, color, religion, sex, or national origin. The Act also established the Equal Employment Opportunity Commission (EEOC), whose function is to use the power provided by the Act to eradicate the above listed discriminatory practices.

Title VII's substantive law is very strong. The guidelines adopted to enforce the Act outlaw just about all of the discriminatory practices discussed in this Manual including practices which are neutral on their face, but which adversely affect women, such as unequal fringe benefit policies, discriminatory hiring and promotion practices, etc. Unfortunately, the system for enforcing these requirements is not as strong. The powers Congress granted to EEOC are weak, the process for using those powers is cumbersome and time-consuming, and EEOC has serious internal administrative problems that are only now being addressed which magnify its other weaknesses. EEOC is

undergoing a reorganization under new and dynamic leadership, and bills to strengthen EEOC's powers are now before Congress. It is possible, therefore, that at sometime in the near future EEOC will be in a position to carry through on the promise that Title VII holds for minorities and women.

a. The EEOC Enforcement Process

EEOC is an independent Commission within the executive branch of the federal government. Headed by a five-person Commission appointed by the President, EEOC has the power to receive complaints, investigate them, make legal findings on discrimination, seek to work out voluntary settlements between the parties, and file law suits on behalf of complainants. However, EEOC does not have the authority to compel an employer to take any action to correct discriminatory behavior. If EEOC's efforts to achieve a voluntary settlement do not succeed, either EEOC or the victim of discrimination must file suit in federal court and try to get the court to require that the employer correct its ways.

To enforce your rights under Title VII you must start with the EEOC enforcement process. Even if your problem is ultimately resolved by the courts, you must begin by filing a complaint with EEOC. Otherwise, the courts will not accept your case. A person who believes she has been discriminated against in violation of Title VII must file a complaint with EEOC within 180 days after the discriminatory act occurred. The complaint can be filed by the aggrieved person; by a class of aggrieved persons (e.g., all women who work for a school district who have not received equality of fringe benefits), or by a third party on behalf of the aggrieved person(s). Complaints, therefore, should be filed as quickly as possible. The Title VII time limits are tricky (e.g., when did the act actually occur) and if you do not file within the 180 day time period allowed, you lose all your Title VII rights on that particular grievance, including the right to go to court. The local EEOC office will be able to advise you on filing dealines.

The complaint filed does not have to be a formal legal document. It needs to set out the basic facts: the name and address of the complainant (in EEOC's term--the charging party) and of the employer; the events that occurred, and whether the discriminatory action was based on race, color, national origin, sex, religion, or a combination. It must be signed and notarized, and then delivered or mailed to the nearest EEOC District Office.

Title VII requires EEOC to defer to the jurisdiction of state and local Fair Employment Practices Commissions. If your state or local government has a fair employment practices commission that EEOC has certified as a deferral agency, EEOC must give that commission the first opportunity to resolve your case. Therefore, even though you filed with a Federal agency (EEOC), the first thing EEOC will do with your complaint will be to send it to the state or local agency, which in turn has several options. If it wishes to accept the case, it may do so, processing it according to its own procedures (which are probably similar to EEOC's). If it does not want to handle the case, it will refer the file back to EEOC, which will then begin its own processing.

If the state or local commission decides not to handle your case and sends it back to EEOC, it will be processed in the following manner: EEOC will first determine whether the problem which the complaint describes is covered by Title VII. Unless otherwise indicated, all of the problems discussed in this Manual for which legal redress is offered will be covered by Title VII. If it is covered, an EEOC investigator will conduct an investigation to determine the facts by interviewing the employer, the charging party and other witnesses, will review the employer's records, etc. Upon completion of the investigation, EEOC will apply the facts to Title VII law and then determine whether, on the basis of the facts and the law, there is "reasonable cause" to believe that discriminatory practices have occurred, or on the other hand, the investigator may find that there is no "reasonable cause" to believe discrimination occurred. This is a legal decision, but EEOC does not have the legal powers necessary to force the

employer or the charging party to accept and obey the decision. It only determines what the next step in the process will be.

- If the Commission finds there is no reasonable cause to believe discrimination occurred, the complainant has two alternatives--to drop the matter, or to carry on the fight by hiring an attorney and filing a Title VII law suit in federal district court. The negative finding by the EEOC investigator will not be used against you in court. But you may not go to court on a Title VII case unless you have gone this far in the EEOC complaint process first;

- If the investigator determines that there is reasonable cause to believe discrimination occurred, EEOC will take the case to the next level in its process--conciliation. An EEOC conciliator will meet with the employer and the complainant to see if a voluntary settlement can be reached. EEOC will try to persuade the employer to take steps to correct the discrimination; such as paying the employee so much in back wages, or agreeing to discontinue further discriminatory actions in its promotional practices. At this stage, EEOC has no power other than to seek voluntary compliance. However, employees know that an EEOC finding of discrimination carries weight with the federal courts. If a school district believes the case may be taken to court, it may agree to a settlement to avoid a law suit that it is likely to lose. Settlements are achieved by EEOC in about one-third of the cases that reach the conciliation stage.

If EEOC cannot obtain a conciliated settlement after a reasonable period of time, you will move out of the administrative process and to a legal action in federal court. First, EEOC can take the case to court for you and sue on your behalf, using its own attorneys and paying all costs. However, because EEOC has so many complaints filed with it, it takes to court only a very small percentage of the cases that it is unable to conciliate. If EEOC cannot take your case to court, you are entitled to hire your own attorney and to take the case to court youself. Most Title VII cases that go to court are brought by private attorneys. Going to court can be expensive, although if you win, the judge can make the school district pay for your attorney's costs. Some attorneys may be willing to take the case on the expectation of receiving court-ordered attorney's fees and will not ask you to pay anything out of your own pocket (except for filing fees and incidental court costs, e.g., xeroxing, telephone calls, typing). If EEOC does not file suit on your behalf, and if you cannot obtain your own attorney, there is nothing else

you can do to resolve your problem--even if EEOC has found that reasonable cause for discrimination exists. If an association or union represents the employees of a school district, they may provide the attorney, particularly if the case applies to a large number of women employees.

If you can get your case to federal court, you have a good chance of getting your problem solved. The federal courts have been very aggressive in finding suspect practices to be discriminatory and in imposing creative remedies to make the employer correct the problem and repair the damage done to the aggrieved person or class of persons. The courts have also been liberal in awarding attorney's fees to the charging party when s/he is successful.

Unfortunately, it may be several years between the day you are discriminated against and the day a federal court hands down a judgment. Although EEOC is supposed to complete each stage of the process within a reasonable period of time, EEOC now has such a huge backlog of cases that it is unable to meet its time frames. It may take a year before EEOC begins working on your case and another year before it has completed the various stages of the complaint process. At present, it takes about two years from the day you file a case to the day EEOC either resolves the case or authorizes you to sue. Every effort is being made under the new administration to eliminate the existing backlog and to keep current with new cases. However, even under the best of circumstances it will take a long time for the new administration to bring its backlog under control and to stay current on newly filed cases.

You can avoid these delays by going directly to court any time after EEOC has had your case in the administrative process for 180 days. It does not matter where your case happens to be in the EEOC process at the end of 180 days. If you do this, EEOC will not sue on your behalf. However, if you are able to obtain an attorney on your own, the fastest way to proceed under Title VII is to file your charge with EEOC, wait 180 days and then ask EEOC for a "right-to-sue" letter. This letter allows you to take your case right into

federal court, without waiting to see if EEOC can solve your problem through its administrative process.

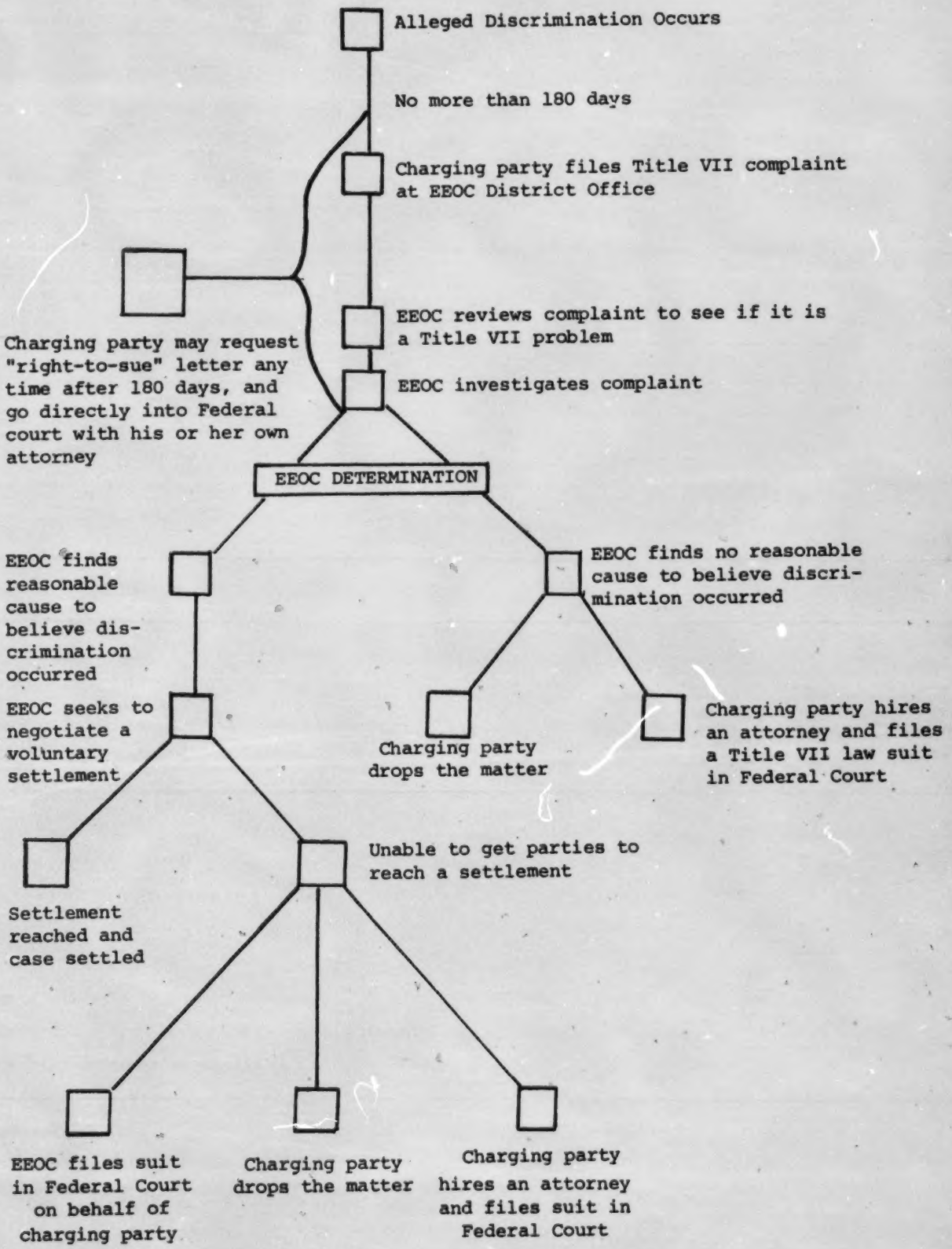
This only works, however, for those charging parties who are able to obtain an attorney. For the majority of discrimination victims who cannot get an attorney, the only recourse is to stay with the backlogged EEOC administrative process in the hope that it will grant them some relief. Congress's reluctance to give EEOC real power at the administrative level has severely handicapped its ability to eradicate discrimination. Coupled with the time problems caused by EEOC's own backlog, the individual complaint procedure is the weak link in the Title VII enforcement chain.

2. Patterns and Practices Cases

In addition to handling individual or class-action cases filed by aggrieved persons, EEOC has the authority to file cases on its own. This authority is used most frequently to initiate "patterns and practices" cases against large employers that EEOC believes are guilty of widespread or systematic discrimination--what EEOC calls "systemic" discrimination. In a patterns and practices case, EEOC reviews the entire range of the employer's practices, and seeks (through conciliation or, if necessary, court action) to force the employer to make sweeping changes in these practices, including hiring, promotion, fringe benefits, training, and other policies. The settlement also may require the employer to make payments or offer jobs or promotions to individuals who have been damaged by the employer's discriminatory policies.

The patterns and practices approach has been EEOC's most effective enforcement tool. EEOC's most successful patterns and practices case is the one it brought against AT&T (American Telephone and Telegraph), the nation's largest company. Under the settlement achieved by EEOC, AT&T was forced to pay more than $30 million to minorities and women; set up special training programs; revise its entire job classification system and qualification criteria, etc. EEOC has also filed several systemic cases against school districts for discrimination against women. One important use of the data collected through the methods suggested in this Manual would be to provide the base with which to persuade EEOC to bring a patterns and practices case against your school district.

EEOC Complaint Process


Alleged Discrimination Occurs
No more than 180 days
Charging party files Title VII complaint at EEOC District Office
Charging party may request "right-to-sue" letter any time after 180 days, and go directly into Federal court with his or her own attorney
EEOC reviews complaint to see if it is a Title VII problem
EEOC investigates complaint
EEOC DETERMINATION
EEOC finds reasonable cause to believe discrimination occurred
EEOC finds no reasonable cause to believe discrimination occurred
EEOC seeks to negotiate a voluntary settlement
Charging party drops the matter
Charging party hires an attorney and files a Title VII law suit in Federal Court
Unable to get parties to reach a settlement
Settlement reached and case settled
EEOC files suit in Federal Court on behalf of charging party
Charging party drops the matter
Charging party hires an attorney and files suit in Federal Court

Source: Press, D.S., Manual on Indian Employment Rights, (1977).

3. State and Local Fair Employment Practices Commissions

A second possible forum for your discrimination case is your state or local Fair Employment Practices Commission (FEPC). Most states and major cities now have their own equal employment laws and their own agency for resolving discrimination complaints. Filing a complaint with an FEPC can be done in lieu of or in addition to filing with EEOC. (A case filed with EEOC will be deferred to the FEPC anyway. However, if the case is filed directly with the state or local FEPC, and if it falls under their jurisdiction, they must investigate and cannot refuse to work on it as they can if it is filed also with the EEOC.) In deciding whether or not to file at the state and/or local FEPC, you should investigate the law and procedures under which the FEPC works in your state or city, as well as to determine its general reputation in the community for speed and fair dealing to complainants.

Many FEPC's are in a position to give you greater assistance than EEOC can because they have stronger laws and/or better procedures, or a comparatively larger staff compared to the size of their caseload. For example, while the Supreme Court has ruled that Title VII does not require that pregnancy be treated in the same manner as any other disability (Gilbert) 1/, that decision does not bind state fair employment practice laws; and a growing number of state courts and FEPC's are holding that their own statutes and regulations do require that pregnancy be treated in the same manner as any other disability, regardless of what the Supreme Court said was true for Title VII.

Also, some FEPC's have "cease and desist" powers that EEOC still lacks. The advantage is that rather than just being able to try to obtain voluntary compliance, many state and some local FEPC's can hold formal hearings and may order a school district to cease discriminatory practices, to pay back pay to aggrieved parties, etc. without being required to go to court. This means there is a better chance that the complaint will be resolved at the

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1/ General Electric v. Gilbert, 429 U.S. 125 (1976).

administrative level much more quickly, and will not require long and expensive court proceedings. Therefore, you should closely examine your state/local FEPC to see if it has jurisdiction over your case, and if it offers the best forum for resolving your complaint.

4. Title IX of the Educational Amendments of 1972

Title IX was passed in 1972, but the regulations were not issued until 1975, three years after the passage of the law. The Title IX regulations (45 C.F.R. 86.11) prohibit sex discrimination in employment, student admissions, and treatment of students. The employment provisions of the regulations prohibit almost all of the sex discriminatory employment practices covered by Title VII in hiring, promotion, rights of return from layoffs, rehiring, fringe benefits, etc. The regulations apply to all educational institutions that receive federal monies from a grant, contract, loan, student scholarship or other mechanism. Since virtually all school districts in the country receive federal grants of some kind, either directly or more likely indirectly through the state, your school district is almost certainly covered by these regulations.

The regulations require each covered school system to conduct a self-evaluation to determine if their practices are in comformity with the regulations. If they are not, the system is supposed to modify its existing practices in order to come into compliance and to take remedial steps to eliminate the effect of prior non-compliance. (The school is not required to develop an affirmative action program.) Important roles for a women's group are to monitor the school's compliance with Title IX requirements, to evaluate the validity of its self-evaluation, to determine whether remedial steps proposed in the self-evaluation are being carried out to correct the violations uncovered during the self-evaluation. The school system is not required to submit its data or documentation on which it has based its analysis either to HEW, its employees, or other community groups. Therefore, a group may have to investigate and gather its own data.

The Office for Civil Rights (OCR) in HEW has been given the responsibility for overseeing compliance with Title IX. OCR does not routinely inspect self-evaluations. Schools are required to keep them for three years and to provide them upon the request of OCR (as during a complaint investigation). Since OCR lacks the staff to review all of the almost 17,000 school districts on any regular basis, it is statistically unlikely that it will, as a matter of course, do a review of your system. On the assumption that the "squeaky wheel" theory will apply, if the women's groups are going to move OCR, it is likely to become necessary for them to assume the initiative and to contact OCR themselves. If they find that their district is failing to comply with Title IX (regardless of the self-evaluation), they should request that OCR conduct a review of the school district. It is really not necessary to have a class action suit; OCR will investigate individual complaints. 1/

While the administrative enforcement mechanisms provide some handle, they have not as yet been tested enough to force a school system into compliance. It is too early to predict now how the courts will eventually decide, since only a few cases have as yet been court tested and no confirming decision has yet been arrived at. The courts are presently split as to whether you have a private course of action.

1/ While OCR does investigate individual complaints, there have been some challenges to their jurisdiction (in Washington state, Ohio, and Georgia). These decisions are being appealed.

In McCarthy v. Burkholder, 15 FEP Cases 682 (U.S. District Court, District of Kansas, April 1977), the court's holdings were very positive. First, it ruled that aggrieved women had a private cause of action under Title IX when challenging a practice by a school district that violates provisions of the Title IX regulations. A private cause of action means that women can take their complaints directly to federal court and the federal court will rule on it, and award such relief as is appropriate. If this case is upheld or followed by other courts, a violation of Title IX by a school district will constitute a violation of the rights of affected women that can be vindicated directly in federal court. Individual women and/or women's groups would be able to go directly to court without waiting for a federal agency to vindicate their rights. If underutilization of women is found in certain positions under Title IX, Section 86.3 requires that the school district take remedial steps to correct school policies. Although the courts have tended to be the most aggressive and sympathetic institution to claims of discrimination since the passage of the 1964 Civil Rights Act, a court suit under Title IX has a number of advantages over going to court using Title VII. First, it is faster. Under Title VII, before a complainant can get her case into court, she must first file with EEOC. This means that there will be at least a 180-day delay before the case can be taken to court.

Another positive aspect of the decision in McCarthy v. Burkholder is that the court held that Title IX cases are not bound by the decisions interpreting Title VII, particularly the decisions holding that Title VII does not require an employer to treat pregnancy in the same manner as it treats other forms of temporary absences. In the McCarthy case, women teachers

and administrators sued various boards of education in the State of Kansas. The women alleged that the boards' policies, which denied sick leave benefits for those employees forced to take a maternity leave of absence, while permitting sick leave for all other illnesses or disabilities, constituted a violation of the Title IX regulations, which clearly prohibits such policies. The school board countered by arguing that the Supreme Court's decision in Gilbert, holding that such practices do not constitute a violation of Title VII, should be binding on Title IX, and that the regulations should be declared invalid. The court held that Title VII and IX are two completely separate Acts, that HEW had the authority under Title IX to issue the regulations referred to, and that those regulations apply, regardless of the ruling in Gilbert under Title VII. Thus, Title IX also promises an alternative route for getting around the restrictive Supreme Court ruling under Title VII. In fact, if this decision is upheld, women working for educational institutions (the only ones covered by Title IX) will have greater rights in regard to pregnancy leave than will women in any other area of employment. Further legal decisions are needed to determine what a women's group can expect from Title IX as it refers to employment practices. Until a final decision is issued, an approach that presses decisions from OCR and from the courts should help to define the parameters of Title IX employment practices.

5. The Equal Pay Act of 1964 1/

The Equal Pay Act prohibits discrimination in wages or fringe benefits based on sex. An employer of fifteen or more persons must pay equal wages to men and women for equal work. Under the Act, work does not have to be identical to be equal; jobs that require substantially equal skill, effort and responsibility and have similar working conditions are considered equal. The 1972 Amendments brought executive, administrative, and professional employees under its coverage; therefore, teachers and educational administrators are clearly covered by the Act.

The chapter on "salaries" discussed the problem of salary inequities and described a method you can use to determine whether the salary system in

1/ The Equal Pay Act of 1963 (Equal Pay Act of 1963 as amended by the Education Amendment of 1972 (Higher Education Act) 29 U.S.C. 201 et seq.

use in your school district discriminates against women. If an inequity is found, the Equal Pay Act offers one legal tool for correcting the problem. Title VII and Title IX also prohibit salary discrimination based on sex; however, the Equal Pay Act provides a more efficient set of procedures for resolving complaints and a more liberal set of time deadlines. In some cases, therefore, it is much more useful than is Title VII. A general practice, and one that is recommended, is that if salary discrimination based on sex is a problem, you should file under both Title VII and the Equal Pay Act. You lose nothing by doing so and if one of the remedies turns out to be inappropriate (perhaps because you missed a deadline of some sort), you can always fall back on the other one.

The Equal Pay Act is administered by the Wage and Hour Division of the Employment Standard Administration in the Department of Labor. The Act is enforced through a complaint procedure that is efficient and has a very good record on resolving complaints. A person who believes that she has been a victim of salary discrimination based on sex can file an Equal Pay Act complaint with the nearest Wage and Hour Division Office. For instance, many school districts reserve certain administrative positions for women that pay less than other administrative positions. Equal Pay handles both individual and class action complaints. A complaint must be filed within two years after the alleged salary discrimination occurred (as against only 180 days for Title VII complaints). It does not have to be a formal complaint; it can even be submitted orally. Upon receiving a complaint, the Wage and Hour Division investigates the situation by meeting with the employer and complainant, touring the job site, etc. If a violation is found, the Wage and Hour Office tries to work out a voluntary settlement between the employer and complainant. This usually requires the employer to pay back wages to the complainant and to raise her salary to the level being paid to a man. The employer may not come into compliance by lowering the salary paid to the men.

The Wage and Hour Division has had a very good record on conciliations. They have been able to obtain settlements in over 90 percent of the complaints filed with them. If they cannot get a settlement, they can take the complaint to federal court and sue on behalf of the complainant. If the Depart-

ment of Labor is unable or unwilling to take the case to court itself, the individual complainant can hire her own attorney and file a private law suit against the employer.

This is the only civil rights agency without an extensive backlog, although their caseload in recent years has also increased. Their success rate, however, continues to excel other civil rights agencies. While many educational discrimination problems will range beyond the jurisdiction of the Equal Pay Act, the Act does provide an effective mechanism for resolving problems in the narrow, but important area of salary inequities.

6. Executive Order 11246 as Amended by 11375

Executive Order 11246, an order issued by the President of the United States and having the authority of law, has covered sex discrimination since October 1968 when it was amended by Executive Order 11375. The requirements specified in the Executive Order are based on the contractual relationship between the federal government and those employers who hold contracts (not grants) with the federal government. As a condition of receiving a contract from the federal government, an employer is required to meet higher standards than those which are imposed on all employers by Title VII. Under the Executive Order, any employers, in order to obtain a federal contract of $10,000 or more, must agree to take affirmative action to:

- Eliminate all practices of discrimination against women and minorities;
- Eliminate any underutilization of women and/or minorities in the employer's workforce, whether or not this underutilization results from previous practices which were discriminatory.

All federal contractors must review their employment practices to insure that none are discriminatory, as defined in the regulations issued pursuant to the Executive Order. The Regulations are similar to those of EEOC's, covering discrimination in hiring, promotion, recruitment, fringe benefits, and requiring performance criteria to be job-related.

In addition, employers with contracts with the federal government in excess of $50,000 must develop and maintain an affirmative action plan (AAP),

a plan designed to remedy the effects of past discrimination over a period of time. An AAP sets out the steps an employer (in this case the school district) intends to take to eliminate discrimination. Most importantly, the AAP must set out the specific steps the employer intends to take to eliminate underutilization of women and minorities at each level of its workforce. Since underutilization is the key problem facing women in attaining administrative positions in school districts, this coverage is extremely important. This AAP includes the establishment of numerical goals and timetables for the achievement of an appropriate workforce, i.e., the number of women and minorities it must hire or promote at each level in the workforce to eliminate the underutilization, and the time period within which it is to achieve the goals it embraces. Employers are evaluated on their good faith efforts to meet these goals. An employer receiving a contract in excess of $1 million must have its AAP audited and approved prior to the award of the contract.

The Office of Federal Contract Compliance Programs (OFCCP, formerly OFCC) in the Employment Standard Administration of the Department of Labor has overall policy responsibility for the Executive Order. Monitoring is carried out by contract compliance offices in the various federal agencies, many of which have been assigned responsibility over specific industry(ies). The Office for Civil Rights (OCR) in the Department of Health, Education and Welfare (HEW) (that also has responsibility for Title IX) has specific responsibility for insuring compliance by all school systems. Enforcement authority rests with OFCCP. Its sanctions against non-complying institutions include the authority to suspend, cancel, or terminate contracts and to bar a contractor from receiving federal contracts in the future.

While the requirements specified by this Executive Order appear to be the most far-reaching of the remedies available to women employed by school systems, they are not, primarily because comparatively few elementary and secondary systems are covered by the Executive Order. They are likely to receive support money from the federal government in the form of grants and not in contracts. As previously stated, grants are not covered under

this Executive Order, and, therefore, if there is no contractual relationship between the school system and the federal government, the Executive Order does not apply. Consequently, there is rarely a basis for regulation of the employment practices of a school system under this Executive Order, as opposed to the many postsecondary institutions that are covered by it.

7. The 14th Amendment to the U.S. Constitution--the Equal Protection Clause

Before Title VII was amended in 1972 to cover educational institutions, the 14th Amendment of the Constitution was utilized as the major tool for attacking sex discrimination by school districts. However, the passage of the Title VII amendments, coupled with a tepid response from the courts on 14th Amendment suits, have diminished both the use and usefulness of this tool.

The 14th Amendment requires state and state-related agencies to treat persons equally under the law and to avoid decisions or policies that are arbitrary or capricious. Treating men and women differently, where no valid basis for the difference exists, would seem to constitute a violation of this Amendment. Some of the initial victories in the area of sex discrimination in education were brought under the 14th Amendment. For example, the LaFleur case, which held that a school district could not set an arbitrary date on which a pregnant woman must begin maternity leave, was based on the 14th Amendment.

However, two lines of court decisions have lessened the usefulness of this tool. First, unlike race, discrimination based on sex has never been found to be a "suspect" classification. Because of this, there is a much greater burden of proof on women seeking to use the 14th Amendment than there is on a black or other racial minority. 1/ Secondly, the Supreme Court has recently begun to hold that to prove discrimination under the 14th Amendment,

1/ Passage of ERA would change this situation.

(race or sex) the plaintiff must prove that the school district intended to discriminate. Since intentional discrimination is hard to prove, and often does not exist in certain types of sex discrimination cases, these rulings make the 14th Amendment unusable in many, if not most, sex discrimination cases.

On the other hand, Title VII covers all of the discrimination practices that could be brought under the 14th Amendment, and does not require a showing of intent to discriminate. The only advantage of the 14th Amendment is that cases brought under it are not bound by the burdensome administrative procedures and strict time frames required under Title VII. In fact, it is recommended that the 14th Amendment be used only when the time deadlines under Title VII have expired, thereby leaving the 14th Amendment as the only tool available.

B. Alternative Remedies

There are three alternatives to legal action that can be taken, and should be considered by women to eliminate discriminatory practices. First is direct action by negotiation with the schools, second is collective bargaining, third is community action designed to involve and seek the support of as many organizations as possible. The approach is to put pressure on the school district through publicity, through presssure initiated by teachers and administrators already employed, and by community pressure brought by organizations outside the school system who are interested in the activities of the school. If the schools continue to prove recalcitrant, and all three approaches are not able to move the schools then filing a complaint under one of the relevant Federal laws, and if necessary going through with a legal action, may be the only recourse.

1. Direct Action Within the School District

The carefully documented report that you will have prepared can prove influential either with the Board of Education or the school administrators. One of the reasons that such a report can be persuasive is that many

discriminatory practices may be supported by practices that have been made acceptable by long usage; decision-makers may not recognize, prior to your spelling them out, that the practices described in your report are indeed discriminatory to women.

Groups should not be over-optimistic and make the assumption that a carefully documented report can eliminate discrimination all by itself. It is, however, certainly worth the effort to present the documented case to the Superintendent and to the Board of Education. If nothing else, it will serve as a means for opening discussion on the issues.

For a citizen or grassroots approach, the NIE publication--Sex Discrimination in the Selection of School District Administrators, What Can Be Done? 1/--suggests a variety of approaches that can be utilized by a local school committee. Although it only addresses the problem of promotion to administrative positions, its approach can be similarly adapted to combatting other discriminatory employment practices. As the pamphlet suggests, unlike a state or national group, a local organization made up of citizens or teachers in their own school district is easily accessible and highly visible. It is easy to find out about and easy to communicate with. Since local grassroots organizations are made up of established members of the community, a local organization has acceptability from the start. Since the members live and work in the community, members have continuing contacts with other people who also have contacts with the school system. School administrators who may practice sex discrimination, can be reminded daily of the organization's existence and its objectives.

a. Collective Bargaining

Since simply documenting the case may not prove successful, or only partially successful, support must be sought from other sources; the report, therefore, should also be presented to the association or to the union 2/ that represents the school personnel in the school district.

1/ Write to NIE for a copy of the pamphlet.

2/ The local educational association and/or teacher's union.

It is most likely that your local school district holds a contract with either a local of the education association or the teacher's union, and collective bargaining is carried out by this group. The local educational association can be a major support; but in some cases may prove to be a problem. Simply because a contract was negotiated by an association or union does not mean that the contract is non-discriminatory. In fact, local associations and unions have been known to negotiate contracts that affect women unfairly. Strong efforts by the national organizations and their leadership, however, have been made to eliminate discriminatory contracts. NEA has nationally and locally been strongly supportive of women's issues, but has not often been put in a position where it has had to choose between its men members and its women members. In virtually every school district in the United States, the majority of the members will be women; however, in most cases, the local chapter (as well as the national) is likely to be dominated by men, who may or may not be sensitive to the women's issues. (With the large number of women members they are certain to be reasonably supportive.) The issues most likely to be supported in collective bargaining are the issues surrounding fringe benefits and salaries, which are of concern to all women members. Once the association has taken on fringe benefits and/or salaries, then a move to those issues where there is evidence of discriminatory practices in hiring and promotion is much easier to make. If the local association is having difficulty negotiating on these issues, you should seek the assistance of the state association. In most states, they will be willing to assist a local association and can strengthen the negotiating position of the local group.

Your approach to a local educational association should assume in the beginning that they will support your effort. If they do not, then it will become an issue as to whether or not you can organize the women members and those men who are sympathetic around the issues connected with sex equity. An oral presentation should be made to the leadership, backed by your written report. All questions posed by the leadership should be responded to. If further data are requested, these should be provided, if

they are available. The intent should be to convince the leadership to make the effort to eliminate specific discriminatory practices as defined in your report as part of their negotiations for a new contract. In order to accomplish this, support for such a change may have to be sought from the membership. In order to inform the membership, a summary of the report should be circulated, and an oral report made at the general membership meeting.

If there is no support from the leadership, but there is indication of support from a majority of the membership, as a last resort, one should consider challenging the leadership when it comes up for election. If you are unable to change their minds, then their positions should be challenged. However, if you can organize the women members in support of the issues, such a showdown should not be necessary.

Where there is no active association or where the school district does not have a contract with the association (or a union), an effort should be made to bring the employees together to negotiate the issues. By circulating a summary of the report and by holding meetings to explain the issues, the staff should be organized around the issues described in your report.

b. Local Grassroots Organization

If these two approaches do not meet with success, then the next step would be to form a grassroots organization. A grassroots organization can frequently have a greater impact as a "compliance mechanism" than the individual complaint system.

A local organization, armed with the irrefutable facts about the hiring policies of the local school district, can become a power that must be reckoned with; its power will not depend on its size or scope of influence, but on its resourcefulness and its ability to reach and persuade influential parties. A local group can become expert within a reasonably short time and can devote its time to calling attention to the existence of discriminatory practices, and organizing other groups to support the elimination of sex discrimination in the school system.

In order to organize such a grassroots organization, all women who are known to have been bypassed in hiring or promotion should be contacted and invited to join the group. Individual women who applied and were not promoted may assume that their problems are unique and that they were not qualified. But if a group of such women are brought together to share their experiences, they are often better able to put the issues into perspective, and begin to question the system rather than themselves.

In order to strengthen the group, training sessions can be set up to assist women in writing their resumes and to improve their presentation at oral interviews, so that a woman can be most persuasive and be able to present herself at her best advantage.

Effort should be made to involve other women, but one of the problems that must be faced squarely is the problem of involving women teachers. There are many teachers who feel that they are doing very well, and who do not want to "rock the boat." In many cases, women at the elementary and secondary school levels have been complaisant.

In the first four years of Title IX 1/, HEW received 858 complaints concerning elementary and secondary education (along with 13 others that were lost and forgotten). They brought charges against institutions in every one of the 50 states. There were 1,585 allegations in these 858 complaints. Most of them--60 percent--made a single charge of discrimination. The other 40 percent listed anywhere from two to 25 separate potential violations of the law. Employment discrimination against women was the most common subject of the Title IX complaints; 36% of the allegations were connected with employment discrimination. Since there is evidence of discriminatory employment practices in almost all school districts, so few complaints is confirmation of the lack of militancy on the part of teachers in elementary and secondary schools.

Since many teachers are not looking for a promotion themselves, they may be unwilling or uninterested in supporting another woman to become

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1/ Stalled at the Start, Project on Equal Education Rights, 1977.

an administrator. One should also remember that women are themselves subject to sex stereotypical attitudes, and many of them have been brought up to believe in the "father figure"--that a man is indeed a better administrator than a woman. Therefore, one cannot automatically expect that because an organization is made up predominantly of women that even in the late 1970s all women are interested in expanding opportunities for women.

One of the major advantages of including discriminatory practices against teachers as well as against administrators in your report is that this is likely to affect more women teachers, since most of them will not be personally interested in obtaining a job as an administrator, but all women are interested in their salaries and fringe benefits, and they are likely to affect all women equally. Nevertheless, gaining the support of the women faculty of the school system will be a major factor in the development of support, and should not be taken for granted.

2. Activities Outside the School District

If results from the school district activities do not prove to be successful, the effort should expand to involve the general public in the effort. The most important weapon in gaining the interest of outside groups will be the written report itself.

The first step will be to examine your own community to determine who is likely to support such an effort. For instance, there are a great many women who are active in the PTA. This group might be supportive of your efforts or might be opposed to it on the grounds that their major interest is in improving the school situation for their children in the school and therefore may not be willing to support an effort by women teachers to obtain sex equity. Some mothers of school children will be unsympathetic to the "working woman" and will be unwilling to support any expansion of their opportunities. If you do not already know what position the PTA is likely to take, it would be advisable to sound out the leadership. If their response is generally

favorable, then you might request an opportunity to send a summary of the report to the PTA members or to be scheduled to make a presentation to a PTA public meeting.

However, if their response is negative, or if you know that the PTA will be opposed to such an action, it would be better to let "sleeping dogs lie" and turn your effort to other groups. It is particularly important to know the "law of the land" before you start organizing. A NOW chapter should certainly be able to tell you who is likely to support such an issue. In many cities and states there are fair employment practices commissions, and there will undoubtedly be a women representative on that commission. She might be very helpful in making suggestions of sources of support, if somebody on the committee went to talk to her. In most major cities, there are women attorneys who specialize in issues of women's equity, and such women might be people who would be helpful. Every state has a Commission on the Status of Women, and some cities have such a committee, perhaps with a different title, but with a similar function. It warrants writing to them, including a summary of the report and offering to send them a copy of the full report, and asking for a meeting with them should they be interested in following up on the issue.

Women at the postsecondary level have been militant in demanding their rights and attempting to organize to protect them; but there has been an apparent absence of communication between women who are doing studies of elementary and secondary schools and those doing similar studies at the postsecondary level. Such a linkage could be of enormous assistance to the elementary and secondary school personnel or to citizens' groups that have undertaken studies designed to identify the existence of discriminatory practices at the elementary and secondary schools. Women at institutions of higher education are themselves law professors, sociologists, statisticians, etc.; few of these resources are readily accessible to women at the elementary and secondary level. If the connection is made, there is much to be learned both technically and organizationally. Many university women have already examined their own institution and have been

in the process of negotiating with their own institutions. Many organized both on the inside and on the outside of their institutions, and have successfully brought pressure from both directions. Women at the elementary and secondary level could take a leaf from their strategy.

If any of the members of your committee know a woman who is teaching at the university, that person may be able to give you the names of the people who have been active in organizing around sex equity issues at the university. Another method of making contact with university women is by phoning your local newspaper and asking for information on the women who have been active, since their activities have frequently received press attention. Many of the university women have published their studies; therefore, if you contact the main office of your local public library to ask if such an article has been published, you may be provided with the names of people you might contact. Most universities have an organization of the faculty and many universities now have a subcommittee dealing with the problems of women, often called the "Committee of W." Telephoning the university switchboard should at least give you the name of a person on the faculty committee, who could in turn provide you with the name of the appropriate woman to contact.

However you obtain a name, you should contact the university women and ask for their support. You should ask them to review your report and make any suggestions that might prove useful. Based on their experience, you should ask for help to develop a successful strategy in working with your school system.

Members of your committee are likely to be active members of other groups, and it is usually easier to gain access to a group through someone who is known in an organization than it is through outsiders. These other groups in the community who might be interested must be identified and informed. Therefore, if members of your committee are active in such organizations as the League of Women Voters, church women of every denomination, the American Association of University Women, the Association

of Business and Professional Women, NOW chapters, and other organizations that are likely to be supportive of your issues, the member of your committee who is best known to each of these groups should assume the responsibility of gaining the support of that particular group.

In many cases, a good church group will be the strongest support that one can find. Church women are very effective and have had previous experience in organizing pressure groups to accomplish their purposes. They may not be as militant as other groups, but because they have a very positive image in the community, they can be a power of strength if they support your issue, lending it an air of "respectability." To obtain as broad a base of support as possible the issue should not necessarily rest specifically on the opportunities for women in administration, since some of the other issues are likely to gain a broader base of support. It will be important to think through which groups are essential to your effort and which groups could be the most helpful, and whether very strong support from one group could lose you the support of some other group.

If there are influential groups that your group does not have direct access to through one of your members, then the approach should be to send a letter including a summary of your report and asking for an opportunity to meet with someone they designate. It is generally a good idea to meet with an individual member prior to requesting an opportunity to address a membership group. This will help you determine whether or not you are likely to have a friendly reception and whether or not it warrants your continuing efforts with that particular group.

a. Local Action Groups

Discriminatory practices is an issue that local action groups are sometimes interested in. There will usually be a variety of action organizations in your community. Usually the chairperson is a man, but almost always the chairperson and the vice-chairperson are persons of different sex. If

you do not know the name of such persons, you should be able to obtain their names by telephoning your newspaper's information office. Once you obtain the name, the best approach would again be a letter enclosing a summary of the report, and again asking for an opportunity to meet with an individual and then, if it appears appropriate, to make a presentation at a membership meeting.

If the group that is undertaking the investigation is an "outside" group such as a NOW chapter, or a League of Women Voter's chapter, the first group that they should seek to gain support from are the women teachers and the easiest way to reach those women teachers would be first through their local educational organization. The combination of the action organizations, the women's church groups, and the association is as powerful a combination of pressure as can be summoned.

Everywhere you gain support from any group, you should ask them to suggest other people that you should contact. If they have organized on other issues, they will most likely be able to suggest other organizations that would support your position.

b. Statewide Activities

Statewide organizations of groups involved in similar activities can also be established. All of the associations and unions have state organizations; if several school districts come together, they can start pressing the State Department of Education to examine the whole issue of discriminatory practices in educational employment. These groups can support each other, exchange success strategies and provide assistance to other school districts to increase the number engaged in similar activities. A group in each school district should be encouraged to undertake a study of their school district's employment practices.

Those schools that have already undertaken successful studies could provide advice and assistance to those school districts that need the help. Support of the State Department can be a valuable ally in negotiations with your local school district.

c. The Media

Publicity in and of itself cannot accomplish change unless you are prepared to follow-up with negotiating with the school district. Press coverage is not likely to impact the school district directly. But used appropriately, the media can be a very powerful tool. It will make your negotiations more effective.

In order to reach the press, it is important to identify all media outlets in the community:

1. Newspapers, radio, television
2. Dailies, weeklies, monthlies, newsletters
3. Educational newsletters, journals, bulletins of all educational organizations.

Don't overlook the local journals. In most major metropolitan areas, besides the major newspapers, there are local newspapers, sometimes handouts and sometimes with subscribers lists, which do cover local news. These groups are much more likely to be interested in issues of local coverage and local importance, and schools are a very important local issue. Therefore, they should be considered a prime target.

Once all the media sources have been identified, the group should develop lines of communication with each of the publications by:

1. Informing them of your organization's existence and requesting their cooperation.
2. Studying the kinds of information each seems to be most interested in.
3. Requesting information from each of them about the news format they prefer to use and their deadlines.

The group should not depend on a single release, but should keep the local newspapers informed of any new events or changes as they occur. Local reporters are likely to be receptive to printing stories about the issue, just so long as there is not a flow of press releases that announce events of no newsworthy significance.

In order to get good coverage, all media efforts should be connected with a news item--not just a release. Thus, you are more likely to get good coverage from a meeting to which the press is invited, than you are from merely sending them a copy of a report.

If you expect to have a meeting to explain the report, or if you intend to make a presentation to the Board of Education on the report, give the media outlet--the newspapers and television--adequate advance notice that you intend to issue the material, give them a copy of the material prior to the meeting, and let them know specifically when the meeting will be held, where, and for what purposes.

The media prefer situations where controversy is involved. If there is no controversy, it is likely that you are going to win your objective, and therefore will not need the media. Without that, controversy should be expected and therefore should provide good copy and expect good coverage.

3. Summary

The use of these alternative strategies for achieving an end to discriminatory practices should be seriously considered, particularly in light of the complicated and time-consuming process involved in pursuing a legal remedy. The federal structure to achieve compliance in 16,000 school districts, with OCR/DHEW that monitors scores of laws and regulations, and EEOC that monitors all employment under Title VII, is inevitably a hit-or-miss proposition. The Office for Civil Rights and EEOC officials have backlogs, some of several years duration, already awaiting their attention.

Funneling enforcement through federal offices may work occasionally, but it cannot be depended upon to do more than put the "fear of God" into most of the school districts so that they are likely to respond with some degree of self-correction before a case can go to court.

The existence of various laws is necessary to establish the parameters of what is and is not discriminatory, but the laws are often not sufficient. They can be used as the basis for litigation, but they may also be used as the definers of proper behavior. The legal parameters and definitions are useful in articulating the issues when pursuing alternative strategies. If a school district shows little willingness to negotiate, negotiating behind a court case will add some pressure to bringing a school system around. If you win in the negotiation with the schools, you can always withdraw your complaint.

Appendix

Questionnaire 1.-- Questions for Oral Interviews with Superintendent/Director of Personnel

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1. Do you encourage (discourage) persons to apply for administrative positions? Men? _____ Women? _____

2. How are people informed that positions exist? Do you advertise for such positions? If so, in what publications do you advertise?

3. Do you have copies of advertisements that have been used? (If yes, ask for copies.)

4. How do you evaluate the informal criteria that are required on the job descriptions? (See Chapter III, pp. 26-35, for description of informal criteria.)

5. Why have so few women been appointed to administrative positions in the school district?

6. How does the system for review of applicants operate? How do you select those that are given an oral interview?

7. Do you get recommendations from outside the school system? From whom? How often do the persons so recommended get appointed?

8. Does the school system have a leadership workshop, or other system, to encourage those who show potential for advancement? Can you provide a list of the applicants/participants for the last three years? If yes, how are the persons selected for participation?

9. Is coaching an athletic team a valuable experience for those interested in appointment to an administrative position?

10. How many of those appointed have already served in the position on a temporary basis? How do they obtain such temporary appointments?

11. Are any efforts being made in the district to increase the number of women in administrative positions? Describe the efforts. Have they been successful?

Questionnaire 2.-- Questions for Women Applicants or Those Who Could Qualify for Administrative Positions

1. Have you applied for any workshop, in-service training program, other programs for upgrading your likelihood to be appointed to an administrative position? Yes ___ No ___ In how many were you accepted? ____ In how many were you refused? _____ Were you given a reason if you were refused? _____

   Yes _____ How many _____ No _____

2. Why did you not apply for any administrative position for which you were qualified?

   _____

   _____

   _____

3. Did anyone discourage you from applying? Yes ____ No ____ If yes, describe.

   _____

   _____

   _____

4. What questions do you feel you should have been asked but were not asked regarding your qualifications?

   _____

   _____

   _____

   Answer the following only if you applied for an administrative position.

5. Do you have any special awards, experience, that particularly qualify you for the position? Yes ____ No ____ If yes, describe.

   _____

   _____

   _____

(Questionnaire 2 continued)

6. How did you become aware of the position? _____

_____

_____

7. Do you think you had adequate time to apply? Yes ____ No ____

8. Did you give men or women's names as references? (Answer by number of names given.) Women _____ Men ____

9. Do you know if they were contacted? Yes _____ No _____

10. Did they support your candidacy? (Answer if you know.) Yes _____ No _____

Answer only if you had an oral interview.

11. Were you asked questions about your marital status? (Whether your husband was likely to move and change jobs, whether he approved of your accepting an administrative position, etc.) Yes _____ No _____ If yes, describe.

_____

_____

_____

12. Was the question of care of children discussed (how you would care for your children in light of additional responsibilities, who would care for your children if they were ill, etc.)? Yes _____ No _____ If yes, describe.

_____

_____

_____

13. Were any other questions asked that seemed likely to be asked only of women? (How will you maintain discipline? How will you manage if some of the staff oppose a woman principal?, etc.) Yes _____ No _____ If yes, describe.

_____

_____

_____

(Questionnaire 2 continued)

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14. Did the panel seem friendly, and willing to appoint a woman? Yes _____ No _____ Describe.

_____

_____

_____

15. Why do you think you were not appointed? _____

_____

_____

_____

Questionnaire 3.-- Questions to Member(s) of Review Panel

1. Did anyone suggest the need to judge applicants fairly, avoiding bias on the basis of race and sex?

   Race: Yes ___ No ___ Sex: Yes____ No ____

2. Did you interview any women? Yes _____ No _____
   If you did, were any questions asked of the women that were not asked of men? Yes _____ No _____
   Describe.

3. Did the women receive as fair an evaluation of their capabilities as the men? Yes _____ No _____

4. What do you see as the critical factors that made the panel select the person(s) chosen?

   _____

   _____

   _____

5. Were informal criteria such as leadership qualities, ability to get along with staff, considered important qualifications? Yes _____ No _____ If yes, how did the panel make their decision that one person had the informal qualifications and another did not?

   _____

   _____

   _____

6. Did anyone seem to be particularly committed to the candidate who was appointed? Yes _____ No _____

Any other comments.

_____

_____

_____

Table 5. -- Employment of Teachers by Sex

Collect data over a ten-year (or 15-year) time period reporting number of teachers by sex. Calculate the percent of women teachers at the elementary, junior high school and high school levels separately. If a consistent pattern of rise in the percentage of men teachers emerged then it warrants further investigation.

School Level	Year		Year		Year	
	Male	Female	Male	Female	Male	Female
	--percent--					
Elementary Schools						
Intermediate Schools						
Secondary Schools						
	--number--					
Elementary Schools						
Intermediate Schools						
Secondary Schools						

Table 6. -- Applicants Hired by Sex: 1975, 1976, 1977

Compare applicants who are re-entrants separately from new teachers since re-entrants have a proven record with the school. Compare percent of men and percent of women who applied against those who were hired.

Applicant category	Number who applied			Number who were hired			Percent applied/ hired 2/		
	1975	1976	1977	1975	1976	1977	1975	1976	1977
ELEMENTARY									
Women teachers 1/									
Men teachers									
Total percent women									
SECONDARY									
Women teachers 1/									
Men teachers									
Total percent women									

1/ Includes both beginning and re-entering women teachers.

2/ Percent of those who applied who were hired.

Table 7. -- Recent College Graduates with Teaching Degrees

Collect number and percentage of education graduates for the past three years by sex and by educational specialty from local universities that feed teachers to your school district to identify all graduates available to teach at elementary and secondary levels. Calculate the percent of women at each level separately.

Graduates	Number of men	Percent of men	Number of women	Percent of women
ELEMENTARY EDUCATION Year				
Year				
Year				
SECONDARY EDUCATION Year				
Year				
Year				

Table 8. -- Summary Table of Graduates, Applicants, and Persons Hired

Compare percent who graduated,with percent who applied, with percent who were hired by sex. If the pattern shows that markedly more men were hired than either graduated or applied, prima facie evidence of under-utilization of women exists.

Summary Table

	1975		1976		1977	
	Men	Women	Men	Women	Men	Women
ELEMENTARY SCHOOL						
Number graduates 1/						
Percent graduates						
Number applying 2/						
Percent applying						
Number hired 2/						
Percent hired						
Percent hired of those who applied by sex 2/						
SECONDARY SCHOOL						
Number graduates 1/						
Percent graduates						
Number applying 2/						
Percent applying						
Number hired 2/						
Percent hired						
Percent hired of those who applied by sex						

1/ Pick up data from Table 7.

2/ Pick up data from Table 6.

Table 9. -- Average Additional Salary Earned by Grade Level

Allowance	Number of Men Teachers	Number of Women Teachers

Additional Salary Men Teachers (Allowance x Number of Men Teachers)	Additional Salary Women Teachers (Allowance x Number of Women Teachers)
Total _____	_____
Average additional salary for men teachers _____	Average additional salary for women teachers _____
(Total ÷ by number of men teachers = average additional allowance for men teachers.)	(Total ÷ by number of women teachers = average additional allowance for women teachers.)

Table 10. -- Average Additional Salary Earned by Degrees Held

Allowance	Number of Men Teachers	Number of Women Teachers

Additional Salary Men Teachers (Allowance x Number of Men Teachers)	Additional Salary Women Teachers (Allowance x Number of Women Teachers)
Total _____	_____
Average additional salary for men teachers _____	Average additional salary for women teachers _____
(Total ÷ by number of men teachers = average additional allowance for men teachers.)	(Total ÷ by number of women teachers = average additional allowance for women teachers.)

Table 11. -- Average Additional Salary Earned by Years of Continuous Experience

Allowance	Number of Men Teachers	Number of Women Teachers

Additional Salary Men Teachers (Allowance x Number of Men Teachers)	Additional Salary Women Teachers (Allowance x Number of Women Teachers)
Total _____	_____
Average additional salary for men teachers _____	Average additional salary for women teachers _____
(Total ÷ by number of men teachers = average additional allowance for men teachers.)	(Total ÷ by number of women teachers = average additional allowance for women teachers.)

Table 12. -- Summary: Average Additional Salary Earned from Non-Discriminatory Factors

Factors	Men	Women	Net (Men Minus Women)
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
B. Total additional salary due to non-discriminatory factors	____	____	____

Table 13. -- Average Additional Salary Earned by Non-Teaching Experience

Allowance	Number of Men Teachers	Number of Women Teachers

Additional Salary Men Teachers (Allowance x Number of Men Teachers)	Additional Salary Women Teachers (Allowance x Number of Women Teachers)
Total _____	_____
Average additional salary for men teachers _____	Average additional salary for women teachers _____
(Total ÷ by number of men teachers = average additional allowance for men teachers.)	(Total ÷ by number of women teachers = average additional allowance for women teachers.)

Table 14. -- Average Additional Salary Earned by Summer Program

Allowance	Number of Men Teachers	Number of Women Teachers

Additional Salary Men Teachers (Allowance x Number of Men Teachers)	Additional Salary Women Teachers (Allowance x Number of Women Teachers)
Total _____	_____
Average additional salary for men teachers _____	Average additional salary for women teachers _____
(Total ÷ by number of men teachers = average additional allowance for men teachers.)	(Total ÷ by number of women teachers = average additional allowance for women teachers.)

Table 15. -- Average Additional Salary Earned by Outstanding Performance

Allowance	Number of Men Teachers	Number of Women Teachers

Additional Salary Men Teachers (Allowance x Number of Men Teachers)	Additional Salary Women Teachers (Allowance x Number of Women Teachers)
Total _____	_____
Average additional salary for men teachers _____	Average additional salary for women teachers _____
(Total ÷ by number of men teachers = average additional allowance for men teachers.)	(Total ÷ by number of women teachers = average additional allowance for women teachers.)

Table 16. -- Average Additional Salary Earned by Additional Duties

Allowance	Number of Men Teachers	Number of Women Teachers

Additional Salary Men Teachers (Allowance x Number of Men Teachers)	Additional Salary Women Teachers (Allowance x Number of Women Teachers)
Total _____	_____
Average additional salary for men teachers _____	Average additional salary for women teachers _____
(Total ÷ by number of men teachers = average additional allowance for men teachers.)	(Total ÷ by number of women teachers = average additional allowance for women teachers.)

Table 17. -- Average Additional Salary Lost by Prior Teaching Experience in Another School District Not Credited

Allowance	Number of Men Teachers	Number of Women Teachers

Additional Salary Men Teachers (Allowance x Number of Men Teachers)	Additional Salary Women Teachers (Allowance x Number of Women Teachers)
Total _____	_____
Average additional salary for men teachers _____ (Total ÷ by number of men teachers = average additional allowance for men teachers.)	Average additional salary for women teachers _____ (Total ÷ by number of women teachers = average additional allowance for women teachers.)

Table 18. -- Average Additional Salary Lost by Prior Non-Continuous Teaching Experience Not Being Credited

Allowance	Number of Men Teachers	Number of Women Teachers

Additional Salary Men Teachers (Allowance x Number of Men Teachers)	Additional Salary Women Teachers (Allowance x Number of Women Teachers)
Total _____	_____
Average additional salary for men teachers _____	Average additional salary for women teachers _____
(Total ÷ by number of men teachers = average additional allowance for men teachers.)	(Total ÷ by number of women teachers = average additional allowance for women teachers.)

Table 19. -- Summary: Salary Differential Due to Possible Discriminatory Factors

Factors	Men	Women	Net (Men Minus Women)
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
B. Total additional salary due to discriminatory factors	_____	_____	_____

Table 19a. -- Summary: Additional Salaries Lost to Women

Factors	Men (Average unpaid salary)	Women (Average unpaid salary)	NET* (Women Minus Men)
1.			
2.			
3.			
C. Total unpaid salary due to discriminatory factors	_____	_____	_____
D. Total discriminatory salary (Add net of B & C)			_____

*Note carefully the process of subtraction as it is the opposite of Table 19.